



# राजपत्र, हिमाचल प्रदेश

## (अमाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, गुरुवार, 28 जून, 1956

### GOVERNMENT OF HIMACHAL PRADESH Law Department

#### NOTIFICATION

Simla-4, the 11th June, 1956

**No. LR. 1-89/55.**—In pursuance of Section 33A of the Government of Part 'C' States Act, 1951, the Lieutenant Governor, Himachal Pradesh, is pleased to order the publication of the following English translation of 'Himachal Pradesh Vayaktigat Vanas Adhiniyam', ('The Himachal Pradesh Private Forests Act') 1954, as passed by the Himachal Pradesh Vidhan Sabha and assented to by the President on the 6th August, 1955.

Act No. 6 of 1955

### Himachal Pradesh Private Forests Act, 1954

(Authorised Text)

AN

ACT

*to provide for the conservation of Private Forests.*

It is hereby enacted in the Fifth Year of the Republic of India as follows:—

## CHAPTER 1

## PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Himachal Pradesh Private Forests Act, 1954.

(2) It extends to the whole of the State of Himachal Pradesh.

(3) It shall come into force at once.

2. *Act not to apply to certain lands.*—This Act shall not apply—

(a) to any land which is vested in Government ; or

(b) to any land which is a reserved or protected forest under Indian Forest Act 1927 (Act XVI of 1927).

3. *Definitions.*—In this Act unless there is anything repugnant in the subject or context,—

(1) “Collector” includes any officer empowered by the State Government to discharge the functions of the Collector under this Act ;

(2) “Controlled Forest” means a forest in respect of which a notification has been issued under sub-section (1) of section 35 ;

(3) “estate” means any area :—

(a) for which a separate record of rights has been made, or

(b) which has been separately assessed to land revenue, or would have been so assessed if the land revenue had not been released, compounded for or redeemed, or

(c) which the State Government may, by general rule or special order, declare to be an estate ;

(4) “fee” includes also the fee payable to the State Government under the terms of the Forest or Revenue Settlement or usage or custom subject to which permission to fell and sell trees was being given by the integrating States before their merger ;

(5) “forest” includes any land recorded as forest in a record of rights ;

(6) “forest offence” means an offence punishable under this Act or under any rule made thereunder ;

- (7) "Forest Officer" means any person whom the State Government may appoint to carry out all or any of the purposes of this Act or to do anything required by this Act or any rule made thereunder to be done by a Forest Officer;
- (8) "Forest Settlement Officer" means an officer appointed by the State Government to perform the duties of a Forest Settlement Officer under this Act;
- (9) "landlord" means the owner of the estates or tenure in which a forest or waste-land is situated who is entitled to exercise any right in such forest or wasteland ;
- (10) "notification" means a notification published in the Official Gazette ;
- (11) "notified forest" means a forest specified in a notification issued under section 4;
- (12) "owner" includes a patta or jagir holder, lessee, mortgagee in possession, manager, trustee, receiver appointed by a competent court or a Court of Wards in respect of property under the superintendence or charge of such court ;
- (13) "private forest" means a forest which is not the property of the Government or over which the State has no proprietary rights or to the whole or any part of the forest produce of which the State is not entitled ;
- (14) "prescribed" means prescribed by rules made under this Act ;
- (15) "right holder" means a person who has by custom a right of cutting or collecting in, and removing from a forest, timber, fuel and other forest produce for his domestic and agricultural purposes and of pasturing his cattle in a forest ;
- (16) "rule" means a rule made under this Act ;
- (17) "State Government" means the Lieutenant Governor of Himachal Pradesh ;
- (18) "timber" includes trees when they have fallen or have been felled and all wood whether cut up or fashioned or hollowed out for any purpose or not ;
- (19) "tree" includes timber and fuel trees, palms, bamboos, stumps, brushwood and canes ;

- (20) "wasteland" means any land which the State Government may, by notification, declare to be a wasteland for the purposes of this Act;
- (21) "working plan" means any written scheme for the management and treatment of a forest;
- (22) "year" means a year beginning on the 1st day of April and ending on the 31st day of March of the following year;
- (23) words and expressions used but not defined in this Act and defined in the Indian Forest Act, 1927, shall have the meanings respectively assigned to them in that Act.

## CHAPTER 2

### GENERAL PROVISION RELATING TO THE MANAGEMENT OF, AND EXERCISE OF RIGHT IN A NOTIFIED FOREST

4. *Power to prohibit certain acts.* — The State Government may, by notification and subject to such conditions as may be imposed by the Forest Officer concerned, prohibit the cutting, felling, girdling, lopping burning, stripping off the bark or leaves or otherwise damaging any tree or counterfeiting or defacing marks on trees or timber in such private forest as may be specified.

5. *Demarcation of private forests.* — In every private forest in respect of which a notification is issued under section 4, the Forest Officer shall, within a period of one year from the date of publication of such notification, demarcate the limit of such forest in accordance with the revenue records, and shall erect thereon such number of boundary pillars at such points of the line of demarcation as may be necessary at Government expense.

6. *Rights in private forests or part thereof to be exercisable in accordance with this Act.* In the forest notified under section 4 the rights of the landlord and, notwithstanding anything contained in any record-of-rights prepared under any law for the time being in force, the rights of any other person to cut, collect or remove trees, timber or other produce in or from, or to pasture any cattle in any forest shall not be exercised in contravention of the provisions made in or under this Act.

7. *Restrictions on rights to cut, collect or remove timber etc. and reclaim forests for purposes of cultivation.* — In view of the necessity for conservation of soil and moisture and in the interest of the general public —

- (a) a person who has a right to cut, collect or remove trees, timber or fuel from any notified forest shall

not cut, collect or remove such trees, timber or fuel except under a permit granted by the Forest Officer in this behalf and in accordance with such conditions as the Forest Officer may impose :

Provided that nothing in this clause shall apply to any trees, timber or fuel which is required by the owner or right holder for domestic purposes, manufacture of agricultural implements or cremation of dead bodies ;

(b) a person who has a right to reclaim any land in notified forest for the purpose of cultivation and is the owner of the notified forest shall not reclaim any land therein except with the previous permission of the Forest Officer obtained in writing and in accordance with such conditions as the Forest Officer may impose.

8. *Height at which trees and age of bamboo culms that may be cut.*—No person with a felling permit shall, in a private forest, cut down any tree at a height of more than six inches from the ground or any bamboo culm less than one year old.

9. *Certain persons not to sell or transfer timber.*—No person, not being a landlord, a person acting under the authority of a landlord or an officer acting under the provisions of this Act or rules made thereunder shall sell or otherwise transfer any timber obtained by him in the exercise of a right to cut timber in any notified forest, and the timber cut by him in excess of his requirement shall be liable to forfeiture by the State Government.

10. *Restrictions of right of landlord or persons claiming through landlord to cut or remove timber or forest produce.*—The landlord, or a lessee or other person claiming through the landlord, shall not cut or remove or permit any person to cut or remove any trees, timber or other forest produce in or from any notified forest so as to effect the right of any person which such person may, subject to any rules made under this Act, enjoy under any custom or usage.

11. *Grant of license to fell trees and fees for sale of trees.*—(1) Forest Officer may, on the application of the landlord or owner, grant a license for the felling of trees for such purpose and with such conditions as he may deem proper keeping in view the necessity for conservation of soil and moisture and the interest of the general public, and thereupon it shall be lawful for the landlord or the owner to carry out felling in accordance with the terms of the license.

(2) The landlord or owner selling trees shall pay 15% of the sale price as fees to the State Government and the timber shall not be removed from the forest unless fees have been paid.

(3) The owner may exercise the option of selling the trees either through the Forest Department or direct to any contractor. In the event of selling the trees direct, the owner shall have to pay 15% fees as prescribed above on the price of the trees calculated in accordance with the prescribed principles.

12. *Preparation of a working plan.*—(1) The Forest Officer may direct any owner of the notified forest to prepare within a specified period a working plan in the prescribed manner for management of the forest.

(2) The owner of such notified forest may either himself prepare the working plan or request the Forest Officer to prepare a working plan on his behalf.

(3) The Forest Officer may, after considering each working plan submitted to him, by an order in writing, accept or modify such working plan in such manner as he may consider necessary or substitute another working plan for it.

(4) If any owner of such notified forest does not submit a working plan within the period specified under sub-section (1) or does not request the Forest Officer to prepare one on his behalf within the period specified in sub-section (2), the Forest Officer may prepare a working plan in respect of such forest.

(5) The cost of the preparation of the working plan under sub-section (2) and (4) will be borne by the owner in the case of forests which will be at a profit and by Government in the case of forests run at a loss. Where the cost is payable by the owner such cost may be realised as arrears of land revenue when the landlord fails to pay it within the period to be specified by the Forest Officer.

13. *Management of forest.*—The forest for which an approved working plan exists will be managed by the owner himself according to prescriptions made in such working plan with the assistance of such trained staff as may be prescribed in the working plan and under the superintendence of the Forest Officer. No deviation from the prescriptions of the working plan will be permitted without the previous sanction of the Forest Officer.

14. *Removal of timber and extraction and removal of resin from private forest.*—(1) Save as provided in the foregoing sections, no tree, unless

marked and no timber, unless hammer marked by the Forest Officer shall be cut or removed from the private forest and no tree or part thereof or timber from the private forest shall be launched into any river, stream or water, unless it bears property mark or marks and is covered by a permit granted in this behalf and fees therefor are first paid, provide always that no removal of a tree or part thereof or timber or fuel shall be done by land, unless covered by a challan issued by the Forest Officer subject to such restrictions as he may consider necessary to impose as regards its check while in transit and the time between which the movement of such tree, timber or fuel shall remain suspended.

(2) No resin will be extracted, removed or carried from private forests except in accordance with the rules framed under the Act.

15. *Recovery of fees due to the State Government.*—(1) where a licence under section 11 is issued for the sale of tree, timber or fuel from a private forest, the licensee shall not be permitted to remove such trees, timber or fuel unless all prescribed fees payable to the State Government are first paid in full.

(2) The removal of such trees, timber or fuel as are mentioned in sub-section (1) shall be subject to such conditions as the Forest Officer may deem necessary to impose.

16. *Prohibition of further contracts.*—A contract entered into by an owner with any person after the commencement of this Act conferring on such person the right to cut, collect or remove trees, timber or fuel from the private forest shall be void unless the owner has first obtained a licence in this behalf under section 11.

17. *Restrictions on right to graze cattle* - No person shall in exercise of any customary right or other right, pasture or cause to be pastured in any notified forest, any cattle of which he is not the owner.

18. *Offences under this chapter and trial of such offences and penalties thereof.*—(1) Any person who contravenes any of the provisions of this chapter or deviates from the prescriptions of the sanctioned working plan without the previous sanction of the Forest Officer, shall be punishable with a fine not exceeding rupees one thousand or simple imprisonment not exceeding three months or both.

(2) Offences under this section shall be triable by a Magistrate of the first or the second class and proceedings under this section may be instituted on a complaint made by the landlord of the notified forest in respect of which the offence is alleged to have been committed or by any right holder of such a notified forest or by the Forest Officer or by any officer specially empowered by the State Government in this behalf.



(3) When any person is convicted of an offence under this section, any trees, timber or other forest produce in respect of which the offence is committed may be liable to forfeiture. If such trees, timber or other forest produce has or have been destroyed or converted or otherwise disposed of by him, the value thereof may be recoverable from him in the same way as a fine imposed on him under sub-section (1).

(4) Any trees, timber or other forest produce forfeited under this section shall be disposed of in such manner as the Collector may, subject to rules, if any, direct.

## CHAPTER 3

### CONTROLLED FORESTS

19. *Power to constitute a controlled forest.*—(1) If the State Government is satisfied at any time that the provisions of chapter 2 are not or have not been sufficient to secure due protection of any notified forest or that it is necessary in the interest of the general public to apply the provisions of this chapter to any private forest whether notified or not, it may constitute such forest a Controlled Forest in the manner hereinafter provided.

(2) If it appears from the report of the Forest Officer that any wasteland, the area of which is not less than fifty acres which is lying uncultivated for more than seven years and is suitable for afforestation and that the owner of such land is unwilling or unable to cultivate it by growing therein agricultural crops, or to use it for purposes of horticulture to the satisfaction of such Forest Officer or to afforest it, the State Government may, after satisfying itself that such land cannot be more advantageously used for the purposes of agriculture or horticulture than for the purposes of afforestation, constitute such wasteland as controlled forest in the manner hereinafter provided.

20. *Notification by State Government.*—Whenever it is proposed by the State Government to constitute any area whether private forest or wasteland a Controlled Forest, the State Government shall issue a notification --

- (a) declaring that it is proposed to constitute such area a Controlled Forest;
- (b) specifying, as nearly as possible, the situation and limits of such area; and



(c) stating that any landlord whose interests are likely to be effected if such area is constituted a Controlled Forest, may, within such period not being less than six months from the date of the notification, as shall be stated in the notification, present to the Collector in writing any objection to such area being constituted a Controlled Forest.

(2) A copy of such notification shall be served on the landlord in the prescribed manner.

*Explanation.*—For the purpose of clause (b) it shall be sufficient to describe the limits of the area by roads, rivers, ridges or other well known or readily intelligible boundaries.

21. *Hearing of objections.*—(1) The Collector shall in the prescribed manner hear any objection presented under clause (c) of section 20 and shall pass an order—

(a) dismissing such objection, or

(b) directing that the proposal to constitute the said area a Controlled Forest shall be dropped either in respect of the whole of the said area or in respect of a part of it to be specified in the order.

(2) Any landlord who is aggrieved by an order passed by the Collector under sub-section (1) or any Forest Officer or other person generally or specially empowered by the State Government in this behalf, may file a revision application to the State Government whose orders shall be final.

(3) If no objection is presented under clause (c) of section 20 or if such objection is presented and is finally disposed of under the provisions of this section, the State Government may, where considers that any area included in the notification issued under section 20, should be constituted a Controlled Forest, issue a notification—

(a) declaring that it has been decided to constitute such area a Controlled Forest;

(b) specifying as nearly as possible the situation and limit of that area; and

(c) appointing a Forest Settlement Officer to enquire into and determine the existence, nature and extent of any rights other than landlord's rights alleged to exist in favour of any person in or over any area comprised within

such limits, or in or over any forest produce and to deal with the same as provided in this chapter.

(4) The Forest Settlement Officer appointed under clause (c) of sub-section (3) shall, in the prescribed manner, give an opportunity to the landlord to be heard in the enquiry referred to in that clause.

22. *Proclamation by Forest Settlement Officer.*—When a notification has been issued under sub-section (3) of section 21, the Forest Settlement Officer shall publish in every town and village in the neighbourhood of the area comprised therein, a proclamation—

- (a) specifying as nearly as possible the situation and limits of the proposed area;
- (b) explaining the consequence which as hereinafter provided, will ensue when such area is constituted a Controlled Forest; and
- (c) fixing a period of not less than six months from the date of such proclamation, and requiring every person claiming any right mentioned in sub-section (3) of section 21 (other than landlord's rights) within such period either to present to the Forest Settlement Officer a written notice specifying or to appear before him and state the nature of such right and the amount and particulars of the compensation, if any, claimed in respect thereof.

23. *Inquiry by Forest Settlement Officer.*—The Forest Settlement Officer shall take down in writing all statements made under section 22 and shall at some convenient place inquire into all claims duly preferred under that section and the existence of any rights mentioned in sub-section (3) of section 21 other than landlord's rights and not claimed under section 22 so far as the same may be ascertainable from the records of Government and the evidence of any persons likely to be acquainted with the same.

24. *Powers of Forest Settlement Officer.*—For the purpose of such inquiry the Forest Settlement Officer may exercise the following powers, that is to say —

- (a) power to enter, by himself or to authorise any officer to enter upon any land, and to survey, demarcate and make a map of the same; and
- (b) the powers of the Civil Court in the trial of suits.

25. *Order on claims to rights of pasture or to forest produce.*—In the case of claim to rights of pasture or to forest produce, the Forest Settlement Officer shall pass, subject to the provisions of section 26

and 32, an order admitting or rejecting the same in whole or in part.

26. *Manner in which Forest Settlement Officer should pass orders*—(1) The Forest Settlement Officer shall when passing orders under section 25—

- (a) prepare a list of the right-holders with their fathers' names, castes, residences and occupations of each;
- (b) decide what fraction of the timber and other forest produce of the forest notified under sub-section (3) of section 21 shall be allotted to the right-holders;
- (c) decide the maximum amount of timber and other forest produce to which each right-holder is entitled;
- (d) determine the number and description of the cattle, if any, which the claimant is from time to time entitled to graze in the area and the season during which such pasture is permitted;
- (e) consider the capacity of the area to supply without danger to its conservation, the requirements of the right-holders.

(2) In deciding what fraction of the timber and other forest produce shall be allotted to the right holders, the Forest Settlement Officer shall have regard to—

- (a) the entries in any record of rights prepared and finally published under any law for the time being in force and value to be attached to such entries under such law;
- (b) the amount of forest produce which the right-holders have taken from the area notified under sub-section (3) of section 21 for their fuel or other domestic or agricultural purposes;
- (c) the attempts, if any, made from time to time by the landlords or the right-holders to preserve the said forest or utilise the said wasteland;
- (d) any other material showing the respective rights of the landlord and right-holders in the said area; and
- (e) the extent of land not included in the area notified under sub-section (3) of section 21 and is still available for exercise of the rights of right-holders.

27 *Suspension of rights when required for the conservation of a forest.*—

When passing an order under section 25 on any claim, the Forest Settlement Officer is of opinion that the conservation of the forest or the utilisation of the wasteland concerned so requires, he may instead of permitting the exercise of the full rights proved by the claimant, order that the exercise of such rights shall be suspended wholly, or in

part, for such period and subject to such conditions as may be specified in the order :

Provided that it shall be necessary for the Forest Officer to make adequate arrangements for the grazing of cattle.

28. *Extinction of rights.*— Rights (other than landlord's rights) in respect of which no claim has been preferred under section 22 and regarding the existence of which nothing has come to notice during the inquiry under section 23 shall be extinguished unless before the publication of the notification under section 35 the person claiming them satisfies the Forest Settlement Officer that he had sufficient cause for not preferring such claim within the period fixed under section 22.

29. *Prohibition of further contracts.*— After the issue of a notification under section 20, the landlord of the forest or the area specified in such notification, shall not enter into any contract with any person conferring on such person the right to cut, collect or remove timber or other forest produce or trees in or from such area and any such contract entered into after the issue of the said notification under section 20 shall be void :

Provided that this restriction shall, without prejudice to the other provisions of the Act, cease, if the proposal to constitute the area concerned a Controlled Forest, is dropped or the area is eventually not constituted a Controlled Forest.

30. *Prohibition of cutting of trees.*— (1). At the time of issuing a notification under section 20 or at any time thereafter, the State Government may make an order prohibiting, until the date of the publication of a notification under section 35 and subject to such conditions and exceptions as may be specified in the order, the cutting, collection and removal of any trees or any class of trees in the area in respect of which such notification is issued, and effect shall be given to such order notwithstanding anything contained in any contract, grant or record-of-rights to the contrary :

Provided that the order shall not apply to an area the proposal to constitute which as a Controlled Forest is dropped.

(2) Every such order shall be published in the neighbourhood of the said area in the prescribed manner.

31. *Procedure for dealing with claims of forest contractors.*— (1) In the case of a person who claims to have a right under any contract with, or grant made by, the landlord before the issue of a notification under section 20, to cut, collect or remove any forest produce in or from, or to pasture cattle in an area notified under sub-section (3) of sec-

tion 21 or any part thereof, and who claims compensation, for the loss or modification of such right, the Forest Settlement Officer shall determine the amount which should, in his opinion, be awarded as compensation to such claimant, and subject to the provisions of sub-section (3) shall direct that the amount, if any, so determined shall be awarded to the claimant.

(2) In determining the amount of compensation to be awarded to such claimant, the Forest Settlement Officer shall take into consideration the following and no other matters, namely:--

- (a) any payment made by the claimant to the landlord;
- (b) whether or not such payment was a reasonable and bonafide payment;
- (c) whether or not the exercise by claimant of his rights under any contract entered into between the claimant and the landlord or under any grant made by the land-lord contravened or tended to contravene the provisions of section 7.
- (d) any expense reasonably incurred by the claimant in order to cut, collect or remove trees, timber or other forest produce;
- (e) the value of trees, timber or other forest produce cut, collected or removed by, or with the permission of the claimant.

(3) Instead of directing the award of compensation in cash, the Forest Settlement Officer may direct that the claimant shall be permitted to cut, collect and remove from the said area such quantity of timber or other forest produce as shall not exceed in value the amount determined by the Forest Settlement Officer under sub-section (1).

(4) The claimant shall not cut, collect or remove any timber or other forest produce except in such manner and at such times and in such parts of the said area as may be specified in rules or in instructions issued by the Forest Officer.

(5) The Forest Officer shall decide when the claimant has cut, collected and removed trees, timber or other forest produce to the aggregate value mentioned in sub-section (3) and the decision of the Forest Officer shall, subject to any order that may be passed in revision by the Conservator of Forests, Working Plans Circle, be final.

32. *Appeal from orders passed under section 25 or section 31.*—Any person who has made a claim under section 25 or section 31, any Forest Officer or other person generally or specially empowered by

the State Government in this behalf, may, within six months of the date of the order passed by the Forest Settlement Officer under section 25 or section 27 or section 31, present an appeal from such order to the prescribed authority.

33. *Appeal under section 32.*—(1) Every appeal under section 32 shall be made by petition in writing and may be delivered to the Forest Settlement Officer, who shall forward it without delay to the prescribed authority referred to in that section.

(2) The petition of appeal received from the Forest Settlement Officer shall be heard in the manner provided for the time being for the hearing of appeals in matters relating to land revenue.

34. *Persons entitled to appear, plead and act.*—The State Government, or any person who has made a claim or presented an objection under this Act, may appoint any person to appear, plead and act on its or his behalf before the Collector or the Forest Settlement Officer or the appellate court, in the course of any inquiry, hearing or appeal under this Act.

35. *Notification declaring land to be a Controlled Forest.*—(1) When the following events have occurred, namely:—

- (a) the period fixed under section 22 for preferring claims has elapsed, and all claims if any, made under sections 22 and 31 have been disposed of by the Forest Officer; and
- (b) if any such claims have been made, the period limited by section 32 for appealing from the orders passed on such claims has elapsed, and all appeals, if any, presented within such period have been disposed of by the appellate officer,

the State Government shall publish a notification in the Gazette specifying definitely according to boundary marks, erected or otherwise, the limits of the area which is to be constituted a Controlled Forest, and declaring the same to be a Controlled Forest from a date fixed by the notification, and from the date so fixed such forest shall be deemed to be a Controlled Forest:

Provided that, if in the case of any area in respect of which notification under section 20 has been issued, the State Government considers that the enquiries, procedure and appeals referred to in this chapter will occupy such length of time as to endanger in the meantime the conservation of the forest, the State Government may pending the completion of the said enquiries, procedure and

appeals, declare such area to be a Controlled Forest, but not except as provided in sections 29 and 30 so as to prejudice or affect any existing rights.

(2) Any declaration made in respect of any area by the State Government under the proviso to sub-section (1) shall cease to have effect from the date of any final order passed under section 21, directing that the proposal to constitute such area a Controlled Forest shall be dropped, or of any order passed under sub-section (1).

36. *Publication of such notification in neighbourhood of forest.*—The Forest Officer shall, before the date fixed by such notification, cause a copy thereof to be published in every town and village in the neighbourhood of the forest.

## CHAPTER 4

### CONTROL AND MANAGEMENT OF CONTROLLED FORESTS AND POWERS OF FOREST OFFICERS

37. *Control and management of Controlled Forests to vest in the State Government.* The control and management of every Controlled Forest shall vest in the State Government.

38. *Appointment of Forest Officers for Controlled Forests.*—The State Government shall, by notification, appoint a Forest Officer for the purposes of one or more Controlled Forests or of a specified portion thereof.

39. *Power to invest Forest Officers with certain powers.*—The State Government may invest any Forest Officer with all or any of the following powers, that is to say :

- (a) power to enter upon a land and to survey, demarcate and make a map of the same;
- (b) the power of a Civil Court to compel the attendance of witnesses and the production of documents and material objects; and
- (c) power to hold inquiry into forest offences and in the course of such inquiry to receive and record evidence.

40. *Demarcation of Controlled Forests.*—The Forest Officer shall demarcate the Controlled Forest or portion of the Controlled Forest for which he is appointed in such manner as may appear to be necessary in the circumstances of the case.

41. *Extent to which landlord is to be allowed to remove timber and other produce from Controlled Forest.*—The Forest Officer appointed for



any Controlled Forest shall, subject to the requirements of any working plan prepared for the forest, allow the landlord or right holders of such forests to cut, collect or remove therefrom such quantity of trees timber or other forest produce as may, in the opinion of the Forest Officer, be required for his reasonable agricultural or domestic needs.

42. *State Government to receive all revenues from and incur expenditure on Controlled Forest.*—The State Government shall receive all revenues accruing from the working and management of a Controlled Forest and shall pay the whole expenditure incurred in the working and management of such forest, and the landlord of such forest or any other persons shall not be entitled to make any objection to any expenditure that the State Government may consider it necessary to incur on such working and management.

43. *Maintenance of revenue and expenditure account.*—The State Government, or any authority appointed by them in this behalf, shall maintain in the prescribed manner a revenue and expenditure account, the working and management of every Controlled Forest and shall supply an abstract of the yearly account to the landlord of such forest.

44. *Payment of allowances for, and net profits of Controlled Forest to landlord.*—(1) The State Government shall during the period of its control and management of any Controlled Forest pay, at prescribed intervals, to the landlord of the area comprising—

I. *Forest.*—(a) an allowance calculated on the total area of the forest as determined by the Forest Officer at the rate of four annas per acre per annum or such higher rate not exceeding eight annas per acre per annum as the Forest Officer may, from time to time, by general or special order, determine; and

(b) the net profits, if any, accruing for the working and management of the forest will be paid to the owner, after deducting ten percent, as the cost of management.

II. *Wasteland.*—(a) no allowance will be paid;

(b) when all expenses incurred by the State Government for the afforestation of any such land have been recouped, the profits resulting from such afforestation shall, during the period the control of such land remains vested in a Forest Officer be paid to the owner after deducting ten percent as the cost of management.

(2) For the purpose of calculating the net profits, the total expen-

diture incurred on the working and management of the forest shall be adjusted against the total income from the working and management up to the date of account and the amount of any deficit shall be carried forward without interest from year to year till such amount is made up and surplus is effected.

(3) For the purposes of sub-section (2)—

- (a) the total expenditure shall include the allowance paid to the landlord concerned under clause (a) of sub-section (1) and any sum determined as compensation under sub-section (1) of section 31 or the value of anything taken from the forest under sub-section (3) of that section; and
- (b) the total income shall include the proceeds of confiscation or forfeiture for forest offences not committed by the landlord in respect of the forest or the forest produce thereof after deducting from such proceeds—
  - (i) the rewards, if any, paid to informers and officers out of such proceeds, and
  - (ii) such incidental expenses as may be fixed by the Forest Officer including that incurred for the storage, transport and sale of the articles or forest produce forfeited or confiscated.

45. *Rights of right holders to be exercised in accordance with rules.*—The rights of right-holders in a Controlled Forest shall be exercised in accordance with the rules.

46. *Grouping of forests for management.*—The Forest Officer may, with a view to the more efficient management and control of the forests, order that the Controlled Forests under his control in more than one village and under more than one landlord shall be grouped together.

47. *System of annual groups.*—(1) When the Forest Officer has ordered the grouping of Controlled Forests under section 46, he may direct that the rights of right-holders in a Controlled Forest shall be exercised in such portion of such group as he may order.

(2) In passing orders under sub-section (1) the Forest Officer shall have regard to the conveniences of the right-holders so far as that is possible without prejudicing the efficient administration and conservation of the Controlled Forest.

48. *Extent of rights of right-holder to be varied by Forest Officer* — When the right-holder's share of the produce of a Controlled Forest is insufficient in any year to meet the maximum requirements of the right-holders, the Forest Officer shall determine for that year the

amount of such produce which each right-holder may take in accordance with the rules.

49. *Release of Controlled Forests.*—(1) The State Government may, at any time, by notification, declare that the provisions of this chapter shall cease to apply to a Controlled Forest from such date as may be specified in the notification and that, with effect from that date, the forest shall cease to be a Controlled Forest.

(2) If on the date of the publication of notification under subsection (1) the balance sheet of the revenue and expenditure account prepared under section 43 shows that any amount is due to the State Government in respect of the management and working of such forest, such amount shall be recovered from the owner as may be determined generally or specially by the State Government.

## CHAPTER 5

### PENALTIES AND PROCEDURE

50. *Forest offences.*—Any person who, without the permission of the Forest Officer in writing or in contravention of any provision of this Act or any rule or order made thereunder—

- (a) fells, girdles, lops, taps or burns any tree in a Controlled Forest, or strips off the bark or leaves from, or otherwise damages, any such tree; or
- (b) quarries any stone, or burns any lime or charcoal, or collects, subject to any manufacturing process, or removes any forest produce from a Controlled Forest; or
- (c) breaks up or clears, for cultivation or any other purpose any land in a Controlled Forest; or
- (d) sets fire to a Controlled Forest or kindles a fire without taking all reasonable precautions to prevent its spreading to any portion of such forest; or

(e) permits cattle to damage any tree in a Controlled Forest, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees, or with both.

51. *Penalties for breach of rules.*—Any person contravening any rule, for the contravention of which no penalty is otherwise provided by this Act, shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to one hundred rupees or with both.

52. *Seizure of property liable to confiscation.*—(1) When there is a reason to believe that a forest offence has been committed in

respect of any forest produce, such produce found within the Controlled Forest where an offence has been committed, may be seized by any Forest Officer.

(2) Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized and shall, as soon as may be, make a report of such a seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.

53. *Procedure thereupon.*—On receipt of any report made under sub-section (2) of section 52 the Magistrate shall with all convenient despatch take such measure as may be necessary for the apprehension of and trial of the offender and the disposal of the seized property according to law.

54. *Trees, timber, forest produce, when liable to confiscation.*—  
(1) All trees, timber or other forest produce in respect of which a forest offence has been committed shall be liable to confiscation.

(2) Such confiscation may be in addition to any other punishment prescribed for such offence.

55. *Disposal on conclusion of trial for forest offence of produce in respect of which it was committed.*—When the trial of any forest offence is concluded, any tree, timber or other forest produce in respect of which such offence has been committed, shall, if it has been confiscated, be taken charge of by a Forest Officer, and, in any other case, may be disposed of in such manner as the court may, subject to rules, if any, direct.

56. *Procedure when offender not known or cannot be found*—When the offender is not known or cannot be found, the Magistrate may, if he finds that an offence has been committed, order property in respect of which the offence has been committed, to be confiscated and taken charge of by the Forest Officer, or to be made over to the person whom the Magistrate deems to be entitled to the same:

Provided that no such order shall be made until the expiration of one month from the date of seizing such property or without hearing the person, if any, claiming any right thereof and the evidence, if any, which he may produce in support of his claim.

57. *Procedure as to perishable property seized under section 52.*—The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property subject to speedy and natural decay seized under sub-section (1) of section 52 and may deal with the

proceeds as he would have dealt with such property if it had not been sold.

58. *Appeal from orders under sections 54 to 56.*—The officer who made the seizure under section 52 or any official superior, or any person claiming to be interested in the property so seized, may, within one month from the date of any order passed under sections 54 to 56 appeal against the order of acquittal or conviction, as the case may be, to court to which orders made by such Magistrate are ordinarily appealable and the order passed on such appeal shall be final.

59. *Property when to vest in the State.*—When an order for the confiscation of any property has been passed under section 54 or section 56, as the case may be, and the period prescribed by section 58 for an appeal from such order has expired and no such appeal has been preferred or when on an appeal being preferred the appellate court confirms such order in respect of the whole or portion of such property, or such portion thereof, as the case may be, shall vest in the Government for the purpose of the State free from all encumbrances.

60. *Saving of power to release property seized.*—Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the State Government from directing at any time the immediate release of any property seized under sub-section (1) of section 52.

61. *Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary marks.*—Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code:—

- (a) knowingly counterfeits upon any timber or standing tree a mark used by Forest Officers to indicate that such timber or tree belongs to a Controlled Forest or is the property of some person or that it may lawfully be cut or removed by some person,
- (b) alters, defaces or obliterates any such mark placed on a tree in a Controlled Forest or on timber lying in or removed from any such forest by or under the authority of a Forest Officer, or
- (c) alters, moves, destroys or defaces any boundary mark of any Controlled Forest,

shall be punishable with imprisonment for a term which may extend to six months or with fine, which may extend to five hundred rupees or with both.

62. *Power to arrest.*—(1) When any person is reasonably suspected of having committed any forest offence punishable

with imprisonment for one month or upwards and refuses on the demand of a Forest Officer to give his name and address, or gives a name or address which such officer has reason to believe to be false, he may be arrested by such officer, in order that his name and address may be ascertained.

(2) When the true name and address of such person have been ascertained, he shall be released. If the true name and address of such person are not ascertained within twentyfour hours from the time of his arrest, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

63. *Power to prevent commission of offence.*—Every Forest Officer shall prevent, and may interfere for the purpose of preventing the commission of any forest offence.

64. *Power to compound offence.*—The offences other than those specified in section 61 and section 62 punishable under the Act may with the permission of the Court before which any prosecution for such offence is pending, be compounded by any Forest Officer so empowered by the State Government in this behalf.

65. *Presumption that forest produce belongs to Controlled Forests.*—Whenever in connection with any forest offence a question arises as to whether any trees, timber or other forest produce seized within the limits of a Controlled Forest belongs to such forest, such trees, timber or other forest produce shall be presumed to belong to such forest until the contrary is proved.

## CHAPTER 6

### CATTLE TRESPASS

66. *Application of Cattle Trespass Act 1871.* Cattle trespassing in any portion of a Controlled Forest shall be deemed to be causing damage to public plantation within the meaning of section 11 of the Cattle Trespass Act, 1871, and any such cattle may be seized and impounded by any Forest Officer.

67. *Power to alter fines fixed under Cattle Trespass Act, 1871.*—The State Government may, by notification direct that, in lieu of the fines fixed under section 12 of the Cattle Trespass Act, 1871, there shall be levied for each head of cattle impounded under section 66 of this Act such fines as it thinks fit.

## CHAPTER 7

## MISCELLANEOUS

68. *Forest Officers deemed to be public servants.*—All Forest Officers shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

69. *Forest Officers not to trade.*—Except with the permission in writing of the State Government no Forest Officer shall, as principal or agent, trade in trees, timber or other forest produce, or be or become interested in any lease of any forest or in any contract for working in any forest.

70. *Bar of suits and other proceedings.*—When a notification has been issued in respect of any forest under section 20 or under sub-section (1) of section 35 or when an order has been made under sub-section (1) of section 30 or under sub-section (3) of section 31, no suit or other proceedings shall; save as otherwise provided in this Act lie in or be entertained by any civil, criminal or revenue court —

- (a) in respect of any modification, suspension or extinction as a result of any such modification or order or as a result of restriction imposed by section 28 or section 29 of any right which any person was entitled by virtue of any contract or otherwise to exercise in such forest;
- (b) to vary or set aside any order passed by a Forest Settlement Officer under sections 25, 27 or 31, or any order passed in appeal or revision under sub-section (2) of section 33;
- (c) against the State Government or any servant of the Government in respect of anything done or omitted to be done in a Controlled Forest by the State Government or any such servant of the State Government while such forest was under the control or management of the State Government, or in respect of any profits claimed by the landlord to be due to him in respect of the management and working of such forest; and
- (d) in respect of anything done or purporting to be done in good faith by any servant of the Government in the discharge of any duty or the exercise of any power imposed or conferred on him under this Act.

71. *Persons bound to assist Forest Officers.*—(1) Every person who exercises any right in a Controlled Forest or who is permitted to take any forest produce from or to cut or remove



trees or timber in or from, or to pasture cattle, in such forest, and every person in any village contiguous to such forest who is employed by the Government, or who receives emoluments from the Government for services to be performed to the community, shall be bound to furnish without unnecessary delay, to the nearest Forest Officer any information he may possess respecting the commission of, or intention to commit, any forest offences, and shall forthwith take steps, whether so required by any Forest Officer or not -

- (a) to extinguish any forest fire in such forest of which he has knowledge or information;
- (b) to prevent by any lawful means in his power any fire in the vicinity of such forest of which he has knowledge or information from spreading to such forest and shall assist any Forest Officer demanding his aid;
- (c) in preventing the commission in such forest of any forest offence; and
- (d) when there is reason to believe that any such offence has been committed in such forest in discovering and arresting the offender.

(2) Any person who being bound to do, without lawful excuse (the burden of proving which shall lie upon such person) fails—

- (a) to furnish without unnecessary delay to the nearest Forest Officer any information required by sub-section (1); or
- (b) to take steps, as required by sub-section (1) to extinguish any forest fire in a Controlled Forest; or
- (c) to assist any Forest Officer demanding his aid in preventing the commission in such forest of any forest offence, or when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender,

shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both.

72. *Recovery of money due to Government.*—All money payable to the State Government under this Act, or under any rule made under this Act, or on account of the price of any forest produce

may, if not paid when due, be recovered under the law for the time being in force as if it were an arrear of land revenue.

73. *Lien on forest produce for money due to Government.*—(1) When any such money is payable for or in respect of any forest produce, the amount thereof shall be deemed to be first charge on such produce and such produce may be taken possession of by a Forest Officer until such amount has been paid.

(2) If such amount is not paid when due, the Forest Officer may sell such produce by public auction and the proceeds of the sale shall be applied first in discharging such amount and the surplus, if any, shall be paid to the person.

74. *Recovery of penalties due under bond.*—When any person in accordance with any provision of this Act, or in compliance with any rule, binds himself by any bond or instrument to perform any duty or act, or covenants by any bond or instrument that he and his servants and agents, will abstain from any act, the whole sum mentioned in such bond or instrument as the amount to be paid in case of the breach of the conditions thereof may, notwithstanding anything in section 74 of the Indian Contract Act, 1872 be recovered from him in case of such breach as if it were an arrear of land revenue.

75. *Power to make rules.*—(1) The State Government may make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may regulate all or any of the following matters, namely:—

- (a) the cutting, sawing, conversion and removal of trees and timber, and the collection, manufacture and removal of forest-produce from Controlled Forests;
- (b) the granting of licences to the inhabitants of towns and villages in the vicinity of Controlled Forests to take trees, timber or other forest produce for their own use, and the production and return of such licences by such persons;
- (c) the granting of licences to persons for felling or removing trees or timber or other forest produce in or from such forests for the purposes of trade, and the production and return of such licences by such persons;

- (d) the payment, if any, to be made by the persons mentioned in clause (b) or (c) for permission to cut such trees or to collect and remove such timber or other forest produce;
- (e) other payments, if any, to be made by them in respect of such trees, timber and forest produce and the places where such payments shall be made;
- (f) the examination of forest produce passing out of such forests;
- (g) the clearing and breaking up of land for cultivation or other purposes in such forests;
- (h) the protection from fire of timber lying in such forests and trees;
- (i) the cutting of grass and the pasturing of cattle in such forests;
- (j) hunting, shooting, fishing, poisoning water and setting traps or snares in such forests;

Provided that the rules made under this clause shall not require the landlord of a Controlled Forest or any person authorised by him and by the Forest Officer to obtain a permit, or to pay any fee to hunt, shoot or fish in such forest;

- (k) the burning of charcoal, or the subjection of any forest produce to any manufacturing process in such forests;
- (l) the exercise in such forests of any rights of right-holders;
- (m) to regulate rewards to be paid to officers and informers out of the proceeds of fines and confiscations under this Act;
- (n) the extracting of resin in, and its removal from a private forest;
- (o) to regulate working of mines and quarrying for minerals for purposes of section 50;
- (p) the powers and duties of a Forest Officer under this Act;
- (q) the items to be included as revenue and items to be included as expenditure in the account mentioned in section 43 and the manner, in which such account shall be prepared; and

(r) any matter which is by this Act, expressly required or authorised to be prescribed or to be provided for by rules.

(3) (a) The power to make rules under this section shall be subject to the condition of their being made after previous publication.

(b) All rules made under this section shall be published in the Official Gazette and they shall, unless a different date has been specified, come into force from the date of notification.

76. *Savings.*—Nothing in this Act, shall affect any right to minerals lying in or under the Controlled Forest and the State Government shall make adequate provisions for exercise of this right by the person or persons legally entitled to this right in accordance with any rule made by the State Government in this behalf.

By order,  
B. D. SHARMA,  
Assistant Secretary (Judicial).

## विधान सभा

### अधियुक्ता

दिनांक, शिमला-4, 11 जून, 1956

सं० वो० एस० 51 56.—गवर्नमेंट आफ़ पार्ट “सी” स्टेट्स ऐक्ट, 1951 की धारा 26 की उपधारा (2) के अधीन भारत के राष्ट्रपति महोदय ने दिनांक 17 मई, 1956 को हिमाचल प्रदेश विधान सभा द्वारा पारित किए गए निम्नलिखित विधेयक पर स्वीकृति प्रदान कर दी है और उसे अब हिमाचल प्रदेश विधान सभा के प्रक्रिया नियमों के नियम 126 के अधीन सर्वसामान्य की सूचनार्थ इस अधियुक्ता द्वारा प्रकाशित किया जाता है।

अधिनियम सं० 9, 1956

# हिमाचल प्रदेश लैजिस्लेटिव असेम्बली (सैलरीज़ एण्ड अलाऊंसिज़) (संशोधन) अधिनियम, 1956

हिमाचल प्रदेश लैजिस्लेटिव असेम्बली (सैलरीज़ एण्ड अलाऊंसिज़) ऐक्ट, 1952 में

संशोधन करने का

अधिनियम

यह भारत गणतन्त्र के सातवें वर्ष में हिमाचल प्रदेश की विधान सभा द्वारा निम्नलिखित रूप में अधिनियमित किया जाए :

1. सक्षिप्त नाम.— इस अधिनियम का नाम हिमाचल प्रदेश लैजिस्लेटिव असैम्बली (सैलरीज एन्ड अलाऊंसिज) (संशोधन), अधिनियम, 1956 होगा।

2. हिमाचल प्रदेश लैजिस्लेटिव असैम्बली (सैलरीज एन्ड अलाऊंसिज) ऐक्ट, 1952 (ऐक्ट नं० VII, 1952) की धारा 4 में संशोधन.— हिमाचल प्रदेश लैजिस्लेटिव असैम्बली (सैलरीज एन्ड अलाऊंसिज) ऐक्ट 1952, (ऐक्ट नं० VII, 1952) (जिसे यहां से आगे मूल अधिनियम कहा गया है) की धारा 4 के स्थान पर निम्नलिखित धारा रखी जाए:—

“4. **Residence of Speaker and Deputy Speaker.** (1) The Speaker and the Deputy Speaker shall be entitled without payment of rent to the use of furnished residences while in office and for a period of fifteen days immediately thereafter and no charge shall fall on the Speaker or the Deputy Speaker personally in respect of the maintenance of such residence.

(2) If the Speaker or the Deputy Speaker is not provided with or is not using a free furnished residence, he shall be paid Rupees 100 per mensem as house rent allowance.

(3) In respect of the rental value of the free furnished residence or house rent allowance in lieu thereof, no charge whatsoever of income tax levied in accordance with the Income Tax Act, 1922, shall fall on the Speaker or the Deputy Speaker and it shall be borne by the Government.

*Explanation.*— The Deputy Speaker will be entitled to the benefits provided for in sub-sections (1) to (3) with effect from April 1, 1956.”

3. मूल अधिनियम की धारा 7 में संशोधन.— मूल अधिनियम की धारा 7 में शब्द “The Speaker and the members of his family” के स्थान पर शब्द “The Speaker and the Deputy Speaker and the members of their families” रखे जाएं और सर्वदा यह समझा जाएगा कि उपरोक्त शब्द मूल अधिनियम में विद्यमान थे।

बंशीधर शर्मा, सचिव।

## LAW DEPARTMENT

### NOTIFICATION

Simla-4, the 12th June, 1956

No. LR. 1-25/56.—In pursuance of Section 33A of the Government of Part ‘C’ States Act 1951, the Lieut.-Governor, Himachal Pradesh, has been pleased to order the publication of the following English Translation of “Himachal Pradesh Ki Chhoti Nehron Ka Adhinyam (The Himachal Pradesh Minor Canals) Act, 1955” as passed by the Himachal Pradesh Vidhan Sabha and assented to by the President on the 17th November, 1955.

Act No. 14 of 1955

# The Himachal Pradesh Minor Canals Act, 1955

(AUTHORISED TEXT)

## AN ACT

*to make better provision for the control and management of Minor Canals and to provide for the levy of betterment charges thereon in the Himachal Pradesh.*

It is hereby enacted in the Sixth Year of Republic as follows :

### CHAPTER I.—Preliminary

1. **Short title and extent.**—(1) This Act may be called the Himachal Pradesh Minor Canals Act, 1955.

(2) It shall extend to the whole of the State of Himachal Pradesh.

2. **Operation of Act.**—(1) The provisions of this Act shall apply to the extent and in the manner hereinafter provided to every canal specified in either Schedule I or Schedule II, as the case may be.

(2) At any time after the commencement of this Act, the State Government may, from time to time, by Notification —

(a) include any canal under either Schedule I or Schedule II, as the case may be, or transfer a canal from one Schedule to the other Schedule, and thereupon the provisions of this Act applicable to canals included under such Schedule, or such of the said provisions as the State Government may direct, shall apply to such canal ; or

(b) exclude from the operation of this Act any canal included under either Schedule I or Schedule II :

Provided that no canal shall be included under Schedule I, unless—

(a) it is owned in whole or in part by Government, or

(b) is at the commencement of this Act, managed by Government or by any local authority, or

(c) is situated partly within and partly without the territories to which this Act extends, or

(d) has been included under Schedule II and is transferred to Schedule I by direction of the State Government.

3. **Definitions.**—In this Act, unless there is something repugnant in the subject or context,—

- (i) "beneficiary" means in respect of any canal, any person for the time being deriving, or who is to derive, benefit, directly or indirectly, from such canal ;
- (ii) "betterment charges" means the charges levied under Chapter III on lands included in an irrigation scheme ;
- (iii) "canal" means any canal, natural or artificial channel or line of natural drainage or any reservoir, dam or embankment, well's and lift irrigation arrangements constructed, maintained or controlled for the supply or storage of water or the protection of land from flood or sand, and includes any water course or subsidiary works as defined in this section ;
- (iv) "Collector" means the head revenue officer of a district and includes any officer appointed under this Act to exercise all or any of the powers of a Collector ;
- (v) "Commissioner" means any officer appointed under this Act to exercise all or any of the powers of a Commissioner ;
- (vi) "construction" and "construct" include any alteration which would materially extend the area irrigable by a canal or any other alteration of material importance or the renewal of a canal after disuse for six years, but do not include the re-excavation of a canal-head which has been temporarily abandoned owing to change in the river, the excavation of a new head necessitated by a change in the river or a change of water-courses to render existing irrigation more efficient ;
- (vii) "creek" means any channel of a river other than the main channel through which the water of the river would, unless obstructed by deposit of silt, naturally flow at some period of the year ;
- (viii) "district" means a district as fixed for revenue purposes ;
- (ix) "Government" or "State Government" means the Lieutenant Governor of Himachal Pradesh ;
- (x) "irrigator" means in respect of any land which is irrigated from a canal any person for the time being directly deriving benefit by such irrigation and includes a land-owner or any other person having interest in such land ;
- (xi) "labour" includes labourers, cattle and appliances necessary for the execution of the work for which labour is to be supplied ;
- (xii) "mill" means any contrivance whereby the water power of any canal is used for grinding, sawing or pressing, or for driving or working machinery or for any other similar purpose, and includes all subsidiary works and structures connected with any such contrivance except the canal itself ;
- (xiii) "prescribed" means prescribed by rules made under this Act.
- (xiv) "record-of-rights" and "Revenue Officer" have the meanings assigned to them respectively in the Himachal Pradesh Land Revenue Act, 1953 ;



- (xv) "subsidiary works" means all works required for the control or maintenance of the supply to a canal or for the maintenance of a canal in proper condition or for the regulation of the irrigation therefrom or for the prevention of floods or for the provision of proper drainage, in connection with such irrigation, and include also the land required for such works;
- (xvi) "water-course" means any channel which is supplied with water from a canal and which is maintained at the cost of the irrigators, and includes all subsidiary works connected with such channel except the sluice or outlet through which water is supplied to such channel;
- (xvii) "water rate" means the charge made for canal water other than betterment charges;
- (xviii) "land-owner" shall have the same meaning as assigned to it in the Himachal Pradesh Land Revenue Act, 1953.

## CHAPTER II.—Construction of Canals

**4. Prohibition against construction of canals without permission.**—When the State Government has notified in this behalf any natural channel, lake or other collection of water, no person shall, without permission previously obtained in the manner prescribed in the section next following, construct a canal intended to be fed from any such channel, lake or other collection of water:

Provided that nothing in this section shall apply to the construction of a water-course from an existing canal or to the construction of wells.

**5. Application for permission and procedure thereon.**—(1) Any person desiring to construct a canal intended to be fed from any source of supply which has been notified by the State Government under section 4, may apply, in writing, to the Collector for the permission prescribed in that section.

(2) Every application under sub-section (1) shall be in such form and shall contain such particulars as the State Government may prescribe in that behalf.

**6. Power of Collector to construct canal from notified source of supply.**—(1) When a source of supply has been notified by the State Government under section 4 and the Collector considers that the construction of a canal to be fed therefrom will be advantageous, he shall give notice by general proclamation to all persons interested of his intention to construct such canal or allow construction of such canal.

(2) If no objection to the construction of such canal shall have been preferred within a period to be specified in the notice under sub-section (1), or if any such objection has been preferred within the said period, but has been finally overruled, the Collector may proceed to construct such canal.

(3) The provisions of sections 61 and 74 shall apply to all proceedings of the Collector under sub-section (1) of this section and under the preceding section, and the powers conferred upon the Collector by this and the preceding section shall be exercised subject to such sanction as the Government may prescribe and in accordance with the rules made by Government.

**7. Power to prohibit the unauthorised construction of and to close unauthorised canals.**—(1) If any person, without the permission necessary under sections 4 and 5 of this Act or contrary to any of the conditions of such permission, commences to

construct or proceeds with the construction of any canal, the Collector may, at any time, by order in writing, prohibit such person, and, by general proclamation, all other persons from continuing the construction thereof :

Provided that, unless in the case of a construction which would materially extend the area irrigable by a canal, no such order or proclamation, as the case may be, shall be made or issued in respect of any canal which, at the time when it is proposed to make or issue such order or proclamation, has been used for irrigation without interruption, other than such as was due to natural causes beyond the control of the person aforesaid.

(2) If any person shall, at any time after the commencement of this Act, construct a canal without the permission necessary under sections 4 and 5 of this Act, the Collector may, with the previous sanction of the Government, close it and shut off the supply of water thereto and may further, by order in writing prohibit such person, and by general proclamation, all other persons, from maintaining, repairing or renewing such canal or continuing to use the water thereof.

### CHAPTER III.—Betterment Charges

8. Notification of proposal to levy betterment charges.—(1) For any canal to be newly constructed, remodelled, extended or repaired wholly or partially at Government cost after January 1, 1952, whether under Schedule I or Schedule II, the Government may proceed to levy betterment charges in respect of the lands which are included or are likely to be included in the irrigation scheme by notifying in the official gazette the irrigable area included in the scheme in respect of which the betterment charge is to be levied. The total amount spent on the scheme by the Government will also be given in the notification.

(2) In determining the quantum of betterment charges the Government shall take into account the following matters.—

- (i) the capital cost ;
- (ii) increase in the value of land through irrigation facilities ; and
- (iii) increase of the agricultural produce due to irrigation facilities.

9. Procedure for levy of betterment charges.—(1) At any time after the expiry of one month from the date of publication of the notification referred to in section 8, the Government may cause a schedule of betterment charges to be prepared for all lands included in an irrigation scheme showing the rates at which the charges shall be leviable and payable by the landowners and persons having interest thereon and the proportions in which the charges shall be so payable :

Provided that the total amount of levy on the total land in respect of any particulars same will not exceed one half of the total amount spent on the scheme by the Government including interest charges for the number of years in which the betterment charge is to be recovered in equal instalments as may be prescribed :

Provided further that the betterment charges so levied shall be recoverable only after the first crop from the land irrigated by canal or kuhl water is harvested.

(2) A draft of the schedule prepared under sub-section (1) shall be published in the official gazette, copy of which shall be pasted at some conspicuous place in the area affected and in such other manner as may be prescribed.

(3) Any land owner or any person having interest in such land who may be affected by the proposed betterment charges may within ninety days, from the date of publication of the schedule in the official gazette, or from the date of its publication in the area whichever is later, present a petition in writing to the Government stating his objections, if any, to the levy of the betterment charges or the rate thereof.

(4) After considering the objections and after making such further inquiry into the matter as the Government may think fit, the Government shall determine the final schedule of betterment charges and cause the same to be published in the official gazette, and in such other manner as may be prescribed.

**10. Finality of schedule of betterment charges.**—The betterment charges leviable under the final schedules as published under sub-section (4) of section 9 shall be final.

**11. Demand of betterment charges.**—(1) When the schedule of betterment charges has been published in the official gazette under sub-section (4) of section 9, the Collector shall prepare a demand statement in respect thereof and in such form as may be prescribed containing full particulars of the amount which each land-owner or the person having interest in such land shall be liable to pay and cause a notice of demand to be served on him.

(2) Any land owner or the person having interest in such land may within such period as may be prescribed from the date of the notice of demand, present a petition to the Collector objecting to the demand or any part thereof, and the petition shall be disposed of in such manner and orders passed thereon shall be subject to such appeals as may be prescribed.

(3) Any amount due under a notice of demand shall, subject to any orders that may be passed on appeal under sub-section (2) be payable within such time as may be prescribed.

**12. Exemption of certain schemes from levy of betterment charges.**—The Government may exempt any scheme or class of schemes coming under the definition of "canal" from the levy of betterment charges, if the Government is satisfied after necessary enquiry that such scheme or scheme have not enhanced the value of land or have not substantially increased its annual produce.

**13. Postponement of recovery of betterment charges.**—Where there has been a failure of crops in any area, the Government may, notwithstanding anything to the contrary contained in this Act or the rules made thereunder, postpone for such period as it thinks fit the recovery of any such betterment charges, whether wholly or in part.

**14. Apportionment of betterment charges.**—The betterment charges shall be recoverable from the land-owner and the person having interest in such land in such proportions as may be prescribed :

Provided that in making any such apportionment between the land-owner and other persons having interest in the same land, due regard shall be had to the prevailing practice in respect of the division of produce or capital values between such persons in respect of that land :

Provided further that where there are more land-owners than one they shall be jointly and severally liable for the portion recoverable from the land-owner and similarly where there are more than one person having interest in the land they shall be jointly and severally liable for the portion recoverable from them.

**15. Betterment charge to be a charge on the land.**—The betterment charge payable under the provisions of this chapter shall take priority over all other charges payable in respect of the land except land revenue and shall be deemed to that extent to be a charge on the land and shall be recoverable as an arrear of land revenue.

**16. Betterment charge not to affect any other charge leviable.**—The betterment charge payable under the provisions of this chapter in respect of any land shall not affect any other rates or charges leviable under any other law for the time being in force.

**17. Bar to jurisdiction of Civil Courts.**—No civil court shall have jurisdiction in respect of any matter relating to anything done or to be done under this chapter.

**18. Indemnity from proceedings.**—No claim shall lie against the Government for compensation or for the refund of betterment charges on account of loss occasioned by the failure or stoppage of water in canal due to negligence of the beneficiaries regarding maintenance where it is their responsibility or in case of Government maintained canals by any cause beyond the control of the Government or by any repairs, alterations or additions made to the canal by the Collector or by any measures taken by him for regulating the proper flow of water therein or for maintaining the established course of irrigation in cases where the Collector considers such action to be necessary.

**19. Power to make rules.**—(1) The Government may, by notification in the official gazette, make rules to carry out the purposes of the provisions of this chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely—

- (a) the manner in which notices under this chapter or the schedules of betterment charges shall be published ;
- (b) the manner in which rates of betterment charges shall be calculated with reference to any lands or class of lands in an irrigation scheme ;
- (c) the form in which demand statements may be prepared under sub-section (1) of section 11 and the procedure for preparing the same ;
- (d) the form in which notices of demand may be prepared and the manner of their service ;

- (e) the time within which objections may be preferred from notices of demand under section 11, the procedure for the determination of such objections and the authorities to whom and the manner in which and the conditions subject to which appeals may be preferred therefrom;
- (f) the time within which betterment charges shall be payable after the notice of demand and the manner in which such charges may be realized;
- (g) the manner in which betterment charges may be apportioned between land owners and the person having interest in the land;
- (h) the manner in which and the conditions subject to which any officer shall exercise his powers under the provisions of this chapter; and
- (i) any other matter requiring to be prescribed under this chapter.

#### CHAPTER IV.—Provisions applicable to canals under Schedule I

20. This chapter applicable only to canals under Schedule I.—Except as the Government may otherwise direct under section 80 the provisions of this chapter shall apply only to canals for the time being included under Schedule I.

21. General powers of Collector.—(1) Notwithstanding the existence of any rights in or over a canal or water-course, the Collector may —

- (a) exercise all powers of control, management and direction for the efficient maintenance and working of such canal or for the due distribution of the water thereof; and
- (b) whenever and so long as any water-course, sluice or outlet is not maintained in proper customary repair, or any water-course, sluice or outlet through which water is supplied to any person or, in the case of a sluice or outlet, to any water-course or any person is subjected to wilful damage or wrongful enlargement, stop the supply of water to such water-course, sluice or outlet or to any person.

(2) No claim shall be enforceable against the Government for compensation in respect of loss caused by any order passed under sub-section (1) but any person suffering loss by reason of any order passed under sub-section (1) (a) may claim such remission of the ordinary charges payable for the use of the water as is authorised by the State Government:

Provided that, if any right to water entered in a record-of-rights prepared or revised under section 40 (1) or deemed under section 40 (3) to have been made under this Act or admitted in any agreement between the Government and any person, is substantially diminished in consequence of action taken under sub-section (1) (a) the Collector shall award compensation under section 66 to such person in respect of the diminution of his right.

(3) No right to the use of the water of a canal shall be, or be deemed to have been, acquired under the Indian Limitation Act, 1908, nor shall the State Government be bound to supply any person with water.

**22. Power of State Government to suspend or extinguish rights in or over any scheduled canal on payment of compensation.**—(1) The Government may at any time suspend or extinguish any right to which any person is entitled in or over any canal if the exercise of such rights is prejudicial to the interests of other irrigators or to the good management, improvement or extension of the canal.

(2) In every such case, the State Government shall cause to be paid to the person whose right is suspended or extinguished compensation to be assessed by the Collector under section 66. In assessing compensation for the purpose of this section, the Collector shall also have regard to the character of the right, the period during which it has been enjoyed and the damage likely to be occasioned by its suspension or extinction.

**23. Power to enter and survey etc.**—The Collector or other person acting under the general or special orders of the Collector may enter upon any lands adjacent to any canal, or through which any canal is proposed to be made, and undertake surveys or levels thereon and dig and bore into the sub soil;

and make and set up suitable land-mark, level-marks and water gauge ;

and do all other acts necessary for the proper prosecution of any inquiry relating to any existing or projected canal under the charge of the said Collector;

**Power to clear land.**—and, where otherwise such inquiry cannot be completed, the Collector or such other person may cut down and clear away any part of any standing crop, fence or jungle;

**Power to inspect and regulate water-supply.**—and may also enter upon any land, building or water-course on account of which any water rate is chargeable, or has been remitted either in whole or part or included in the land revenue thereof, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with a water rate, and of doing all things necessary for the proper regulation and management of such canal;

**Notice of intended entry into houses.**—Provided that, if such Collector or person proposes to enter into any building or enclosed court or garden attached to a dwelling house not supplied with water flowing from any canal, he shall previously give the occupier of such building, court or garden at least seven days' notice in writing of his intention to do so.

**Compensation for damage caused by entry.**—In every case of entry under this section, the Collector shall upon application made to him in this behalf, assess and pay compensation for any damage which may be occasioned by any proceeding under this section.

**24. Power to enter for repairs and to prevent accidents.**—In case of any accident happening or being apprehended to a canal, the Collector or any person acting under his general or special orders in this behalf may enter upon any lands adjacent to such canal, and may execute all works which may be necessary for the purpose of repairing or preventing such accident.

**Compensation for damage to land.**—In every such case, the Collector shall upon application made to him in this behalf, assess and pay compensation under section 66, for any damage which may be occasioned by any proceeding under this section.

**25. Power to occupy land adjacent to canal for depositing soil from canal and to excavate earth for repairs to the banks and compensation for damage.**—(1) The Collector or any person acting under his general or special orders in this behalf, may within such distance from the canal as the Government may by rule determine, occupy land adjacent to any canal for the purpose of—

(a) depositing upon it soil excavated from the canal, or

(b) excavating from it earth for repairs to the canal.

The Collector shall, upon application made to him in this behalf, assess and pay compensation for any damage which may be occasioned by any proceeding under this section.

(2) The owner of any land which has been occupied after the commencement of this Act for any purpose under sub-section (1) and has remained in such occupation for a period exceeding three years may require that such land shall be permanently acquired in accordance with provisions of section 55.

**26. Supply of water through intervening water-course.**—Whenever application is made to a Collector for a supply of water from a canal, and it appears to him expedient that such supply should be given and that it should be conveyed through some existing water-course, he shall give notice to persons responsible for the maintenance of such water-course to show cause, on a day not less than fourteen days from the date of such notice, why the said supply should not be so conveyed and, after making inquiry on such day, the Collector shall determine whether and on what conditions the said supply shall be conveyed through such water-course.

The applicant shall not be entitled to use such water-course until he has paid the expense of any alteration of such water-course necessary in order to his being supplied through it, and also such share of the first cost of such water-course as the Collector may determine. Such applicant shall also be liable for his share of the cost of maintenance of such water-course so long as he uses it.

**27. Application for construction of new water-course.**—Any person desiring the construction of a new water-course may apply in writing to the Collector stating —

(i) that he has endeavoured unsuccessfully to acquire, from the owners of the land through which he desires such water-course to pass, a right to occupy so much of the land as will be needed for such water-course;

(ii) that he desires the Collector, in his behalf and at his cost, to do all things necessary for acquiring such right;



- (iii) that he is able to defray all costs involved in acquiring such right and constructing such water-course.

**28. Procedure of Collector thereupon.**—If the Collector considers—

- (i) that the construction of such water-course is expedient, and
- (ii) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Collector considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation which he considers likely to become due under section 31; and upon such deposit being made, he shall cause inquiry to be made into the most suitable alignment of the said water-course and shall mark out the land which in his opinion, it will be necessary to occupy for the construction thereof, and shall forthwith publish a notice in every village through which the water-course is proposed to be taken, that so much of such land as belongs to such village has been so marked out.

**29. Application for transfer of existing water-course.**—Any person desiring that an existing water-course should be transferred from its present owner to himself, may apply in writing to the Collector stating—

- (i) that he has endeavoured unsuccessfully to procure such transfer from the owner of such water-course;
- (ii) that he desires the Collector, in his behalf and at his cost, to do all things necessary for procuring such transfer;
- (iii) that he is able to defray the cost of such transfer.

**Procedure thereupon.**—If the Collector considers—

- (a) that the said transfer is necessary for the better management of the irrigation from such water-course; and
- (b) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Collector considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation that may become due under the provisions of section 31 in respect of such transfer; and, upon such deposit being made, he shall publish a notice of the application in every village affected.

**30. Inquiry into and determination of objections to construction or transfer of water-courses.**—(1) When within thirty days from the publication of a notice under section 28 or section 29, as the case may be, any person interested in the land or water-course to which the notice refers, applies to the Collector as aforesaid, stating his objection to the construction or transfer for which application has been

make the Collector shall give notice to the other persons interested that, on a day to be named in such notice or any subsequent day to which the proceedings may be adjourned, he will proceed to inquire into the matter in dispute or into the validity of such objections as the case may be.

(2) Upon the day so named or any such subsequent day as aforesaid, the Collector shall proceed to hear and determine the dispute or the objection as the case may be.

**31. Expenses to be paid by applicant for construction or transfer of water-course before receiving occupation.**—No applicant under section 27 or 29 as the case may be, shall be placed in occupation of such land or water-course until he has paid to the person named by the Collector such amount as the Collector determines to be due as compensation for the land or water-course so occupied or transferred, and for any damage caused by the marking out or occupation of such land, together with all expenses incidental to such occupation or transfer.

**Procedure in fixing compensation.**—Compensation to be made under this section shall be assessed as provided in section 66 but the Collector, may if the person to be compensated so desires, award such compensation in the form of a rent charge payable in respect of the land or water-course occupied or transferred.

**Recovery of compensation and expenses.**—If such compensation and expenses are not paid when demanded by the person entitled to receive the same, the amount may be recovered by the Collector, and shall, when recovered, be paid by him to the person entitled to receive the same.

**32. Conditions binding on applicant placed in occupation.**—(1) When any such applicant has duly complied with the conditions laid down in section 31 he shall be placed in occupation of the land or water-course as aforesaid, and the following rule and conditions shall be thereafter binding on him and his representative in interest :—

(a) *In all cases*—

First—All works necessary for the passage across such water-course existing previous to its construction and of the drainage intersected by it, and for affording proper communications across it for the convenience of the neighbouring lands, shall be constructed by the applicant, and be maintained by him or his representatives in interest to the satisfaction of the Collector.

Second—Land occupied for a water-course under the provisions of section 28 shall be used only for the purposes of such water-course.

Third—The proposed water-course shall be completed to the satisfaction of the Collector within one year after the applicant is placed in occupation of the land.

(b) *In cases in which land is occupied or a water-course is transferred on the terms of a rent charge*—

Fourth—The applicant or his representative in interest shall so long as he occupied such land or water-course, pay rent for the same at such rate and on such days as are determined by the Collector when the applicant is placed in occupation.

**Fifth**—If the right to occupy the land ceases owing to a breach of any of these rules, the liability to pay the said rent shall continue until the applicant or his representative in interest has restored the land to its original condition or until he has paid, by way of compensation for any injury done to the said land, such amount and to such person as the Collector determines.

**Sixth**—The Collector may, on the application of the person entitled to receive such rent or compensation determine the amount of rent due or assess the amount of such compensation and if any such rent or compensation is not paid by the applicant or his representative in interest, the Collector may recover the amount with interest thereon at the rate of six per cent per annum from the date on which it became due and shall pay the same when recovered, to the person to whom it is due.

(2) If any of the rules and conditions, prescribed by this section are not complied with, or if any water-course constructed or transferred under this Act is disused for three years continuously the right of the applicant, or of his representative in interest, to occupy such land or water-course shall cease absolutely.

**33. Construction of outlets from canals by Collector.**—The Collector may construct or repair or alter a sluice or outlet to regulate the supply of water from a canal to any water-course.

**34. Powers to convert several water-courses running for a long distance side by side into one water-course.**—(1) In cases where there are water-courses running side by side or so situated as to interfere with the economical use or proper management of the water-supply, the Collector if applied to for that purpose, or on his own motion, may require the owners to make arrangements to his satisfaction to unite the water-courses or to substitute for them such system as may have been approved by him.

(2) If the owners fail within such time as the Collector may fix to comply with any order passed by him under sub-section (1) the Collector may himself execute the work.

(3) Whenever a water-course has been reconstructed or a new system substituted under sub-section (1) or sub-section (2) the Collector may fix the shares in which the water shall be enjoyed by the persons entitled to use the water-course.

**35. Procedure applicable to occupation for extensions and alterations.**—The procedure hereinbefore provided for the occupation of and for the construction of a water-course shall be applicable to the occupation of land for any extension or alteration of a water-course and for the deposit of soil from water-course clearances.

**36. Costs of executing works under section 34 by whom payable.**—In every case under section 34, the cost of executing or completing the works shall be payable by such person or persons deriving benefit from the water-course as the Collector may in each case determine.

**37. Powers of State Government to direct supply of labour by beneficiaries.**—The State Government may, by notification, direct that a beneficiary shall be bound to furnish unskilled labour to Government for any one or more of the following purposes in respect of any canal :—

- (a) construction,
- (b) maintenance in a state of efficiency,

- (c) annual silt clearance,
- (d) executing any work necessary thereto.

**38. Cost of labour to be borne by the owners of the land benefitted.**—(1) The Government may by notification direct that the canal shall be constructed from a river, stream, creek or another canal for the irrigation of land in an estate or estates to be mentioned in the notification and that the cost of such construction shall be borne in whole or in part by the owners of the land to be benefitted from the canal.

(2) **Provisions of this Act to apply to the new canals.**—The provisions of this Act in regard to the construction, repairs, maintenance and management of canals included in Schedule I shall apply to the new canals constructed in pursuance of the Government notification issued under sub-section (1).

**39. Powers of Collector upon issue of notification under section 38.**—Upon the issue of notification under section 38 the Collector may, from time to time, by general or special order—

- (a) determine the amount of labour to be provided or the amount of work to be performed by each irrigator ;
- (b) regulate the attendance, distribution and control of the labourers provided or the manner of the performance of the work ;
- (c) assess and recover the cost of such labour from any person who fails to comply with an order passed under this section ; and
- (d) fund all costs so recovered and expend them on the provisions of labour engaged for any of the canals to which the notification applies, or subject to the provision, if any, of a record-of-rights specified in section 40, on any other purpose connected with the well-being thereof:

Provided that, the costs assessed as aforesaid shall not exceed such amount as may be prevalent in the area for each day's labour of each of the labourers in respect of whom default has occurred.

**40. Power to prepare record for canal.**—(1) The Collector shall, whenever the State Government may, by special order or by the rules made under the authority of this Act, so direct, prepare or revise for any canal a record showing all or any of the following matters, namely :—

- (a) the custom or rule of irrigation ;
- (b) the rights to water and the conditions on which such rights are enjoyed ;
- (c) the rights as to the erection, repair, reconstruction and working of mills, and the condition on which such rights are enjoyed ; and
- (d) such other matters as the Government may, by rule prescribe in this behalf.

(2) Entries in the record so prepared or revised shall be relevant as evidence in any dispute as to the matters recorded and shall be presumed to be true until

the contrary is proved or a new entry is lawfully substituted therefor :

Provided that no such entry shall be so constructed as to limit any of the powers conferred on the Government by this Act.

(3) When a record showing all or any of the matters enumerated in sub-section (1) has been framed at any settlement of the land revenue already sanctioned by the Government and has been attested by the revenue officer, such record shall be deemed to have been made under this section.

(4) Every person interested shall be bound to furnish to the Collector, or to any person acting under the direction of the Collector, all information necessary for the correct preparation of a record under this section.

(5) The provisions of Chapter IV of the Himachal Pradesh Land Revenue Act, 1950 shall, so far as may be, apply to the preparation and revision of every such record.

### WATER RATES

41. **Levy of water-rates.**—(1) Subject to the terms of any agreement made by it with the owners or irrigators, the Government may, by notification, direct that a rate or rates shall be levied for the use of water of a canal in an authorised manner. Such rate or rates shall be determined keeping due regard of the maintenance and operation charges for the system and the cost of collection of the water-rates.

(2) The Government may, by notification, direct that in addition to or in lieu of the rate or rates above mentioned the land revenue for the time being assessed on the land receiving canal water shall be enhanced in consequence of the change of the class of the land from unirrigated to irrigated :

Provided that, the new rate of assessment shall not exceed that fixed at the time of settlement for irrigated lands of the same class in the same village or in its vicinity :

Provided further that, the Government may allow such lands to continue to be assessed at the rate or rates at which they were assessed immediately before they became irrigated, for a number of harvests to be fixed by the Government.

(3) The Government may, by notification, also impose a special rate for water obtained or used without authority or in an unauthorised manner.

(4) The rate or rates imposed under sub-section (1) or sub-section (2) or sub-section (3) shall be payable from such persons deriving benefit from the water as the Government may, by general or special rule direct.

(5) Subject to the terms of any such agreement as aforesaid, the proceeds of any rate or rates levied under this section shall be disposed of in such manner as the Government may, by general or special rule, direct.

(6) In the event of failure of crop due to reasons beyond the control of the farmer, he shall be entitled to remission of water rate for that year.

**42. Liability when person using unauthorisedly cannot be identified.**—If water supplied through a water course be used in an unauthorised manner, and if the person by whose act or neglect such use has occurred cannot be identified, the person on whose land such water has flowed, if such land has derived benefit therefrom, or if such person cannot be identified, or if such land has not derived benefit therefrom, all the persons chargeable in respect of the water supplied through such water course, shall be liable, or jointly liable, as the case may be, to the charges made for such use.

**43. Penalty when water runs to waste.**—If water supplied through a water-course, be suffered to run to waste, and if, after inquiry by the Collector, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such water-course shall be jointly liable for the charges made in respect of the water so wasted.

**44. Charges recoverable in addition to penalties.**—All charges for the unauthorised use or for waste of water may be recovered in addition to any penalties incurred on account of such use or waste.

All questions under section 42 and section 43 shall be decided by the Collector.

#### **CHAPTER V.—Provisions applicable to canals included under Schedule II**

**45. This Chapter applicable only to Canals under Schedule II.**—(1) Except as the Government may otherwise direct under section 80 the provisions of this chapter shall apply only to canals for the time being included under Schedule II;

**Appointment of Manager.**—(2) Where there are numerous share-holders in the ownership of a canal, or where it is difficult to ascertain the persons who are share holders, or the extent of the interest of the share-holder, or any of them, the Collector, may, if there is no proper manager or representative, require by a proclamation or notice in writing, the share-holders to nominate, within a given period, a fit person as manager of the canal and their representative, and, upon their failure to do so may himself appoint any person to be the manager of such canal and the representative of the share-holders, and the person so appointed may thereupon do all acts and things which the share-holders or any of them might lawfully do in regard to the management of such canal, and all acts and things so done by him shall be binding upon every person who possesses any share in the ownership of such canal.

**46. Power of State Government to apply the provisions of section 40 to any canals.**—The State Government may, by notification, declare all or any of the provisions of section 40 (as to the preparation and revision of records) to be applicable to any canal, and upon any such declaration being made, such provision shall, as far as may be, apply accordingly.

**47. Power to assume control or management or both of a canal.**—(1) It shall be lawful for the Government by notification to assume the control or management, or both, of any canal.—

(a) if the owner of such canal consents thereto, and subject to the condition (if any) on which such consent may in any case be given;

(b) if, after inquiry, the Government is satisfied that the control or management exercised by or on behalf of the owner is such as to cause grave injury to the property or health of persons owning lands in the vicinity;

(c) in the event of an wilful and continuous breach of orders issued under section 50 of this Act.

(2) When the control or management or both, of any canal is assumed under the provisions of sub-section (1) the Government may exercise all or any of the rights and power in regard thereto which, but for such assumption, the owner might lawfully have exercised and may delegate such power or any of them to any person, but Government shall in the absence of any decree or agreement to the contrary, be liable to account, from time to time, to such owner for the income and expenditure thereof and may at any time restore the canal to the owner.

**48. Right of owner upon such assumption to demand that the canal shall be acquired by the Government.**—When the control or management or both, of a canal shall be assumed by the Government under clause (b) or clause (c) of sub-section (1) of section 4, and such control or management shall have continued for a period exceeding six years, the owner thereof may, by notice in writing delivered to the Collector, require that the Government shall acquire such canal.

**49. Power to acquire canal on demand of owner.**—On receipt of notice under section 48, the State Government shall by notification declare that the said canal will be acquired after a day to be named in the said notification, not being earlier than three months from the date thereof, and after the issue of such notification the Collector shall proceed as provided in section 57 and 58.

**50. Power to fix the limits of irrigation and water-rates and to regulate the distribution of water.**—The State Government may, after inquiry through the Collector, in respect of any canal, issue orders as to all or any of the following things namely:—

(a) fixing the limits within which land may be irrigated from such canal;

(b) fixing, as it may deem equitable, the amount and character of the water rates payable by the owner, and the conditions on which such rates are to be paid, suspended, remitted or refunded;

(c) regulating the supply and distribution of the water to and from such canal:

Provided that if any land which has been continuously irrigated from the canal for three years previously is deprived of irrigation, or the income of the canal owner from such canal is materially reduced by reasons of any order passed under this section, the owners of such land or the canal-owner shall be paid by Government or by such persons as Government may determine such compensation as the Collector may consider reasonable:

Provided further that, if the canal-owner has in the opinion of the Government exercised his powers as such in an arbitrary or inequitable manner he shall not be entitled to compensation under this section.

**51. Collection in certain cases of water-rates of canal by the State Government.**—

(1) The State Government may, at the request of the owner, undertake the collection.

of the water-rates leviable in respect of a canal for such period as may be agreed upon with him, and may, thereupon:—

- (a) regulate such collection and determine the persons by whom it shall be made;
- (b) direct that by way of payment for service rendered in making such collections, deductions shall be made not exceeding three per cent of the amount collected.

(2) During the period for which the Government has undertaken the collection of the water-rates leviable in respect of a canal, no suit for the recovery of any such rates shall be instituted.

#### CHAPTER VI.—Provisions Applicable to all Canals

52. This Chapter applicable to all canals.—Save as otherwise hereinafter expressly provided, the provision of this chapter shall be applicable to all canals, whether included under Schedule I or under Schedule II.

53. Consent or decision of the owner how to be determined.—Whenever, in respect of any canal, any question arises which has under this Act or the rules made thereunder, to be determined by the request, consent or decision of the owner, in the ownership of such canal vested in more persons than one who are unable to agree to such request, consent or decision, it shall be lawful to the Collector to act on behalf of the owners in any such matter, and the request, consent or decision of the Collector in any such case shall be binding upon every person who possesses any share in the ownership of such canal.

In every such case the Collector shall give due consideration to the wishes of the shareholder or shareholders who possess the larger interest and when the question is one whether the Government shall be required to take any action, the wishes of such shareholder or shareholders shall prevail and be accepted by the Collector.

54. Settlement of disputes.—(1) Save as provided in the preceding section, whenever a dispute arises between two or more persons in regard to their mutual rights and liabilities in respect of the ownership, construction, use or maintenance of a canal or water-course, and any such person applies in writing to the Collector stating the matter in dispute, the Collector shall give notice to the other person or persons interested that on a day to be named in such notice or any such day to which the proceeding may be adjourned, he will proceed to inquire into the matter in dispute.

(2) Upon the day so named or any such subsequent day as aforesaid, the Collector shall proceed to hear and determine the dispute in the following manner, that is to say,

- (a) If the dispute relates to the ownership of a canal or the mutual rights of owners in the use of the water of such canal or the construction or maintenance of a canal or the payment of any share of the costs of such construction or maintenance or the distribution of the supply of water from a canal, the Collector shall proceed as a Revenue Court under the provisions of the Himachal Pradesh Abolition of Big Landlord Estate and Land Reforms Act, 1953 and the provisions of that Act regarding appeals, revisions and review shall be applicable.



- (b) If the dispute relates to a water-course, the Collector shall hear and determine the case as a Revenue Officer and shall make such order thereon as to him seems fit, and such order shall unless set aside on appeal to the Financial Commissioner be conclusive as to use or distribution of water for any crop sown or growing at the date of such order. The order of the Financial Commissioner on appeal shall in every case be final.

**55. Acquisition of land for canals.**—(1) Any person who has obtained the permission of the Government to construct, or who owns a canal, may apply in writing to the Collector to take up any land required for the purposes of such canal.

(2) If the Collector is of the opinion that the application should be granted, he shall submit it, with his recommendation, for the orders of the Government.

(3) If, in the opinion of the Government, the application should, whether in whole or in part, be granted, it may declare that the land is required for a public purpose within the meaning of the Land Acquisition Act, 1894, and direct the necessary action to be taken thereunder.

**56. Power to acquire canals by consent or otherwise.**—Whenever it appears to the Government expedient in the public interest to acquire any canal, the State Government may by notification declare that the said canal will be acquired after a day to be named in the said notification, not being earlier than six months from the date thereof.

**57. Notice as to claims for compensation.**—As soon as practicable after the issue of such notification the Collector shall cause public notice to be given at convenient places stating that the State Government intend to acquire the said canal as afore said and that claims for compensation in respect of the acquisition thereof may be made before him.

**58. Inquiry into claims.**—(1) The Collector shall proceed to inquire into any such claims and to determine the amount of compensation, which should be given to the claimant. In assessing such compensation the Collector shall proceed as provided in section 66, but for the purpose of this section he shall also have regard to the history of the canal, the expenditure incurred thereon and the profit of the owner.

(2) **Limitation of claims.**—No claim for compensation shall be enforceable after the expiration of one year from the date of the notice under section 57 unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

**59. Vesting of canal in the Government.**—(1) The Government shall by notification declare the day on which a canal has been acquired by it.

(2) Subject to the award of compensation to the owner of the said canal, when the Government acquires a canal, —

- (a) the right, title and interest therein of the owner thereof shall forthwith cease and determine ;

- (b) such canal, subject to any right to take water for irrigation which any person may have, shall forthwith vest in and be the absolute property of the Government.

**60. Power to regulate flow of water in rivers, creeks, natural channels or lines of natural drainage and to prohibit therein or order removal thereof of obstructions.**—The Government may, by notification published in the official gazette, take power to regulate the flow of water in any river, creek, natural channel or line of natural drainage whether by the construction or removal of work or otherwise, and whenever it appears to the Government after inquiry through the Collector that the supply of water to a canal or the cultivation of any land or the public health or public convenience is likely to be injuriously affected by the obstruction of any river, creek, natural channel or line of natural drainage it may, by notification published as aforesaid, prohibit within the limits to be defined by such notification the formation of such obstruction or may within such limit order the removal of or the modification of such obstruction.

**61. Power to remove obstruction after publication of notification and payment of compensation.**—(1) The Collector may, after such publication, issue an order to the person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in the order.

(2) The Collector may himself remove or modify the obstruction—

(a) if the person to whom the order under sub-section (1) was issued fails to comply with that order within the time so fixed; and

(b) in any case where the obstruction is not caused or controlled by any person;

(3) the Collector shall determine from whom the cost of removing or modifying the obstruction shall be recovered, and the amount of compensation due to any person injuriously affected by the removal or modification of the obstruction and the person by whom such compensation shall be payable:

Provided that no compensation shall be awarded for an advantage obtained by an arbitrary or inequitable course of action.

**62. Power of the Collector to regulate flow of water and prohibit or remove obstructions.**—When the Government has by notification as provided in section 60 taken power to regulate the flow of water in any river, creek or natural channel or line of natural drainage it may authorise the Collector to exercise such power on its behalf in accordance with such rules as it may prescribe. A Collector so authorised may in the execution of such rule exercise all the powers conferred upon him by section 61, and his authority shall include the power to take such action as the Government is empowered by section 60 to take after inquiry through the Collector. Such authority may on every occasion be exercised without the publication of any further notification in the gazette.

**63. Powers as to the construction and the maintenance of works in respect of canals under Schedule II.**—(1) The Collector may, at any time, order the beneficiary of any canal under Schedule II to—

- (a) repair and maintain, in a proper state, all or any embankments, protective work, reservoirs, channels, water-courses, sluices, outlets and other work connected with the canal;
- (b) construct, repair and maintain, in a proper state, a suitable bridge, culvert, or similar work at any place across, under, or over the canal, for the purpose of providing communication with any public road or thoroughfare which was in use before the canal was made;
- (c) construct, repair and maintain, in a proper state, suitable works for the passage of the water of the canal, across, under, or over any public road or thoroughfare or any canal or drainage channel which was in use before the canal was made;
- (d) construct, repair and maintain, in a proper state, suitable regulator at or near the head of the canal, where for want of such regulator, an excessive supply of water may enter the canal or cause damage to it, or any crops, lands, road or property in the neighbourhood.

(2) The Collector may at any time order a beneficiary to furnish unskilled labour free of cost for any one or more of the purposes specified in section 37 of this Act.

(3) Every order under sub-section (1) and (2) shall be in writing, and shall specify a reasonable time within which the works or repairs mentioned therein shall be completely executed.

(4) If any order made under this section is not obeyed, to the satisfaction of the Collector, within the time therein specified, the Collector may himself execute or complete the execution of, or cause to be so executed or completed, all works or repairs specified in the order.

**64. Powers as to construction and maintenance of works in respect of canals under Schedule I.**—In the case of canals included under Schedule I, the Collector may—

- (a) call upon the beneficiary to discharge any of the liabilities specified in section 63 sub-section (1) which the Government may have decreed to attach to the beneficiary from such canal or group of canals; or
- (b) himself arrange for the performance of such acts and recover cost as provided in section 68.

**65. Power to take possession and to construct works in cases of emergency.**—(1) If any new work is immediately required to prevent serious detriment to the utility of a canal, the Collector may, notwithstanding anything in the Land Acquisition Act, 1894, take immediate possession of any land required for the construction of the work.

(2) When the Collector has taken possession of any land under sub-section (1) he shall, upon application made to him in this behalf, assess and pay compensation under section 66.

(3) In the event of sudden and serious damage or urgent risk to canal or to property situated in the immediate neighbourhood thereof, or to irrigation carried therefrom or to the public traffic, the Collector may, after giving previous notice, execute or cause to be executed, such works as he may think necessary in order to remedy or prevent such damage or risk, and may require any irrigator to furnish such labour as to the said Collector may seem reasonable and necessary for the immediate execution of such work.

(4) Labour furnished under this section shall be paid at the local market rate.

(5) An order passed under sub-sections (3) and (4) shall be final.

**66. Assessment of compensation.**—In assessing the amount of compensation to be paid under any section of this Act, other than sections 23, 25, 32, 50 and 61 the Collector shall proceed under the provisions of the Land Acquisition Act, 1894, and the provisions of that Act regarding inquiries and award by the Collector, references to the Civil Courts and procedure therein, apportionment of compensation, payment and appeal shall, as far as may be, be applicable to all proceedings under this section.

**67. Compensation for right of user or in the forms of supply of water.**—With the consent of the parties, the Collector may when assessing the amount of compensation to be paid, direct, in the case of any acquisition of land, that the property in such land shall remain with the owner subject to a right of user so long as the land is required for the purpose of the canal or water-course, compensation being awarded for the right of user only, or in the case of an acquisition of a canal, or of land for the purpose of a canal, that the compensation shall take the form in whole or in part of a right to a supply of water from the canal which has been acquired or for the purposes of which land has been acquired.

**68. Apportionment and recovery of the cost of land acquired or works executed.**—(1) When any land is acquired under the provision of section 55, or when any work is executed by or under the order of the Collector under the provision of section 61, section 63, section 64 or section 65, the cost of acquiring such land or of executing such work, as the case may be, shall be recoverable:—

- (a) if the canal is included under Schedule II—from the owner thereof; or
- (b) if the canal is included under Schedule I—from the irrigators or such of them as are, in the opinion of the Collector, benefitted or likely to be benefitted by the acquisition or equitably liable for the whole or any part of the cost of executing the work or from the proceeds of any water-rate levied under section 41; and
- (c) if such appropriation is not contrary to the provisions of the record-of-rights specified in section 40 of the Act—from the fund referred to in section 39 of this Act.

(2) When the cost of acquiring any land or of executing any work is, under the provision of sub-section (1), recoverable from the owners of any canal or from the irrigators therefrom, or any of them, it shall be lawful for the Collector to apportion such cost as to him may seem equitable, among all or any of the persons liable for the whole or any portion thereof and such apportionment shall be final.

(3) When the cost of acquiring such land has been paid, such land, if acquired in full proprietary rights, shall become the property of the canal-owner.

**69. Power to regulate mills.**—The Government may, by general or special order, prohibit or regulate the construction of new, and regulate the use of existing mills upon canals, and appropriation of the water of canals for working mills.

**70. Application of sections 14 to 17 of Land Revenue Act of 1953.**—Except in so far as a contrary intention is expressed section 14 to 17 (both inclusive) of Himachal Pradesh Land Revenue Act of 1953, shall apply to all proceedings under this Act.

**71. Exclusion of jurisdiction of Civil Court except under Land Acquisition Act.**—Save as in section 66 provided, no Civil Court shall have jurisdiction in any matter which a Revenue Officer or Revenue Court is empowered by this Act to dispose of, or take cognizance of the matter in which the Government, any Revenue Officer or Revenue Court exercise any powers vested in it or him by or under this Act.

**72. Power to appoint officers to exercise functions under this Act.**—(1) The Government may appoint any person or any class of officials to perform any functions or to exercise any powers by this Act or the rules made thereunder conferred on or vested in the Collector, Commissioner, if any, Financial Commissioner or such Government.

(2) Such appointment may be made in respect of any canal or of all or any of the canals situate within any specified local area.

(3) In all matters connected with this Act, the Government shall have and exercise over the Financial Commissioner, the Commissioner, if any, and the Collector, and the Financial Commissioner shall have and exercise over the Commissioner, if any, and the Collector, and the Commissioner, if any, shall have and exercise over the Collector, the same authority and control as it or they respectively have and exercise over them in the general and revenue Administration.

**73. Powers of Collector in certain proceedings under the Act.**—For the purposes of every inquiry made and proceeding taken under this Act, the Collector or any other Revenue Officer, authorised by him in this behalf or any other officer authorised by the Government shall have power to summon and enforce the attendance of and examine parties and witnesses and compel the production of documents, and for all or any of these purposes may exercise all or any of the powers conferred on a Civil Court by the Code of Civil Procedure, 1908 and every such inquiry shall, for the purposes of the Indian Penal Code, be deemed to be judicial proceedings.

**74. Permission to owners and parties interested in any canal to object in certain cases.**—In all cases under sections 6, 22, 22A, 24, 36, 42, 43, 45, 47, 49, 50, 51, 53, 54, 58, 60, 61, 63, 64 and 68 of this Act, the owners and other parties interested in the canal shall be given an opportunity of appearing before the Collector and of showing cause to the contrary.

**75. Mode of serving notice and making proclamation.**—Every summons, notice, proclamation and other process issued under this Act shall, as far as may be, be served or made in the manner provided in that behalf in sections 21, 22 and 23 of the Himachal Pradesh Land Revenue Act, 1953.

**76. Bar of compensation where not expressly allowed.**—Save as otherwise expressly provided in this Act, no person shall be entitled to recover any compensation for anything at any time done or in good faith intended to be done in exercise of any power conferred by this Act or by the rules made thereunder.

**77. Protection of persons acting under the Act.**—No suit, prosecution or other legal proceeding shall lie against any person for anything done, or in good faith intended to be done under this Act or the rules made thereunder.

**78. State Government to be party to certain suits and proceedings.**—(1) In any suit or proceeding in which any entry made in any record prepared under section 40 or section 46 is directly or indirectly called in question, the Court shall, before the final settlement of issues, give notice of the suit or proceeding to the Collector, and, if moved to do so by the Collector, shall make the Government a party to the same.

(2) **Bar of other suits against Government.**—Save as provided in sub-section (1) no suit shall lie against the Government in respect of anything done by the Collector or by any person acting under the orders of the State Government in exercise of any power by this Act conferred on such Collector or Government.

**79. Power to recover water-dues and other Charges by Revenue process.**—All water-dues, water-rates and other payments at any time due by or to be collected from any person under any provisions of this Act or under an agreement entered into by the owners of the canal or the person irrigating from it and all arrears of such water-dues, water-rates or other payments shall be recoverable as if the same were arrears of land revenue.

**80. Powers as regards canal, creeks, situated partly without the limits of Himachal Pradesh.**—Any or all of the powers exercisable by the Government under this Act in respect of any canal, river, or creek, may be exercised by such Government in the case of any canal, river, or creek, which is or may at any time be situated partly within and partly without the limit of the Himachal Pradesh and in respect of so much of any such canal, river, or creek, as is within those limits and in the case of any such canal, river or creek the Government may by notification, notwithstanding the provisions of section 2, declare what section of this Act shall be applicable thereto.

**81. Powers exercisable in cases of urgency with regard to canals situated beyond Himachal Pradesh.**—In respect of any canal situated beyond the limits of

the Himachal Pradesh the Government may, by notification published in the Official Gazette, declare that the power exercisable by a Collector, under section 65, may under the circumstances there specified, be exercised by the Collector or other authorised officers within the limits of the Himachal Pradesh for all or any of the purposes of such canal.

**82. Offences under the Act.**—Whoever without proper authority and voluntarily does any of the acts following, that is to say :—

- (1) damages, alters, enlarges, or obstructs any canal ;
- (2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under any canal ;
- (3) interferes with or alters the flow of water in any river, creek or stream so as to endanger damage or render less useful any canal ;
- (4) being responsible for the maintenance of any water course, or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorised distribution of the water therefrom or use such water in an unauthorised manner ;
- (5) corrupt or fouls the water of any canal so as to render it less fit for the purpose for which it is ordinarily used ;
- (6) being liable to furnish labour under this Act, fails without reasonable cause to supply or to assist in supplying the labour required of him ;
- (7) being liable to supply labour under this Act, neglects, without reasonable cause, so to supply and to continue to supply labour ;
- (8) destroys or removes any level-mark or water-gauge fixed by the authority of a public servant ;
- (9) passes or causes animals or vehicles to pass on or across any of the works, banks or channels of a canal contrary to rules made under this Act after he has been desired to desist therefrom ;
- (10) disobeys any order or proclamation issued under this Act, or commits any breach of any rule made thereunder ;

shall be liable on conviction before a Magistrate of such class as the State Government directs in this behalf, to a fine not exceeding fifty rupees or to imprisonment not exceeding one month, or to both.

**83. Power to arrest without a warrant.**—Any person in charge of or employed upon a canal managed by public servants or by a local body including a Panchayat, may remove from the land or buildings belonging thereto, or may take into custody without a warrant and take to the nearest Police Station, to be dealt with according to law any person within his view, committing any of the following offences :—

- (1) wilfully damages or obstructs any canal ;

- (2) without proper authority interferes with the supply of or flow of water in or from any canal or in any river or stream, so as to endanger, damage or render less useful any canal.

**84. Definition of canals for purposes of sections 82 and 83.**—In sections 82 and 83 the word “canal” shall (unless there be something repugnant in the subject or context) be deemed to include also all lands occupied for the purposes of canals and all buildings, machinery, fences, gates and other erection, trees, crops, plantation or other produce upon such lands.

**85 Power to make rules.**—(1) The Government may make rules, consistent with this Act, regulating any matter in regard to which any power is, by this Act, conferred upon the Government, or upon any officer of Government, and generally to carry out the purpose of this Act.

(2) Without prejudice to the generality of the power conferred by subsection (1) rules made under this Act may provide for the levy of a rate imposed upon land in consideration of its protection from sand or flood.

(3) All rules made under subsection (1) shall be so made after previous publication in the Gazette.

(4) All rules made under this Act shall be laid before the Legislative Assembly as soon as may be after they are made.

## SCHEDULE I

## SCHEDULE II

By order,  
B. D. SHARMA,  
Assistant Secretary (Judicial).



## विधान सभा

दिनांक शिमला-4, 16 जून, 1956

सं० पी० एम०, 57/56.—गवर्नमेंट आफ पार्ट 'सी' स्टेट्स ऐक्ट, 1951 की धारा 26 की उपधारा (2) के अधीन भारत के राष्ट्रपति महोदय ने दिनांक 4 जून, 1956 को हिमाचल प्रदेश विधान सभा द्वारा पारित किए गए निम्नलिखित विधेयक पर स्वीकृति प्रदान कर दी है, और उसे अब हिमाचल प्रदेश विधान सभा के प्रक्रिया नियमों के नियम 126 के अधीन सर्वसामान्य की सूचनार्थ इस अधिसूचना द्वारा प्रकाशित किया जाता है।

अधिनियम सं० 10, 1956

# हिमाचल प्रदेश तरण (ferries) अधिनियम, 1956

हिमाचल प्रदेश में तरणों (ferries) का आनियमन करने का  
विधेयक

यह भारत गणतंत्र के सातवें वर्ष में हिमाचल प्रदेश की विधान सभा द्वारा निम्नलिखित रूप में अधिनियमित किया जाए :

## अध्याय 1

### प्रारम्भिक

1. संक्षिप्त नाम, प्रसार तथा प्रारम्भ. —(1) इस अधिनियम का नाम हिमाचल प्रदेश तरण (ferries) अधिनियम, 1956 होगा।

(2) इसका प्रसार समस्त हिमाचल प्रदेश में होगा।

(3) यह उस दिनांक से प्रचलित होगा, जो राज्यशासन राजपत्र में अधिसूचना द्वारा इस हेतु नियत करे।

2. परिभाषा.—जब तक विषय अथवा संदर्भ में कोई बात प्रतिकूल न हो, इस अधिनियम में —

(1) “तरण (ferry)” के अन्तर्गत हैं—नौकाओं, पीपों या लट्ठों के बेड़े (pontoons or rafts) का पुल, झूला पुल (swing bridge), हवाई पुल (flying bridge) और अस्थायी पुल (temporary bridge) तथा तरण (ferry) पर चढ़ने तथा उसके ठहरने के स्थान।

(2) “राज्य शासन” का तात्पर्य हिमाचल प्रदेश के उपराज्यपाल से है।

## अध्याय 2

### सार्वजनिक तरण (public ferries)

3. सार्वजनिक तरणों (public ferries) के सम्बन्ध में घोषणा करने, उनकी स्थापना तथा परिभाषा करने और उन्हें बन्द करने की शक्ति.—(1) राज्यशासन समय समय पर —

(क) यह घोषणा कर सकेगा कि कौन से तरण (ferries) सार्वजनिक तरण (public ferries) समझे जाएंगे तथा उन सम्बद्ध जिलों की घोषणा कर सकेगा, जिनमें इस अधिनियम के

प्रयोजनार्थ वे स्थित समझे जाएंगे ;

(ख) निजी तरण (private ferry) पर कब्जा कर सकेगा और उसे सार्वजनिक तरण (public ferry) घोषित कर सकेगा ;

(ग) नए सार्वजनिक तरण (public ferries) स्थापित कर सकेगा जहां उसकी सम्मति में उनकी आवश्यकता हो ;

(घ) किसी भी सार्वजनिक तरण (public ferry) की सीमाएं परिभाषित कर सकेगा ;

(च) किसी भी सार्वजनिक तरण (public ferry) का मार्ग बदल सकेगा ; तथा

(छ) किसी भी सार्वजनिक तरण (public ferry) को बन्द कर सकेगा, जिसे वह अनावश्यक समझे ।

(2) उक्त प्रत्येक घोषणा, स्थापना, परिभाषा, परिवर्तन अथवा तरणबन्दी राजपत्र में अधिसूचना देकर की जाएगी :

परन्तु प्रतिबन्ध यह है कि जब कोई नदी दो राज्यों के बीच पड़ती हो तो उक्त नदी के सम्बन्ध में इस धारा द्वारा प्रदत्त शक्तियां हिमाचल प्रदेश शासन द्वारा अन्य राज्य के शासन के परामर्श से प्रयोग में लाई जा सकेंगी, और सम्बद्ध राज्य शासनों द्वारा अपने अपने राजपत्रों में अधिसूचनाएं दी जा सकेंगी :

परन्तु यह भी कि यदि नदी के परिवर्तन से किसी सार्वजनिक तरण (public ferry) के मार्ग या सीमाओं में कोई आपरिवर्तन करना आवश्यक हो जाए तो उक्त आपरिवर्तन उस जिले के डिप्टी कमिश्नर द्वारा हस्ताक्षरित आदेश से किया जा सकेगा, जिसमें उक्त तरण (ferry) स्थित हो या ऐसे अन्य किसी पदाधिकारी के हस्ताक्षरित आदेश से किया जाएगा, जिसे राज्यशासन समय समय पर नाम द्वारा या पदाधिकारी के रूप में इस हेतु नियुक्त करे ।

4. प्रतिधन की मांगें.—धारा 3 के अधीन किसी निजी तरण (private ferry) का कब्जा लेने के परिणामस्वरूप यदि किसी व्यक्ति को कोई हानि पहुँचो हो तो राज्यशासन द्वारा उस हानि के लिए उस जिले के, जिसमें उक्त तरण (ferry) स्थित हो, जिला मजिस्ट्रेट से या ऐसे अन्य पदाधिकारी से, जिसे वह इस हेतु नियुक्त करे, परिपृच्छा करने के पश्चात् उस व्यक्ति को प्रतिधन दिया जाएगा ।

5. सार्वजनिक तरणों (public ferries) का अधीक्षण.—(1) धारा 6 और 7 में व्यवस्थित दशा को छोड़ कर, प्रत्येक सार्वजनिक तरण (public ferry) का निकटतम अधीक्षण (immediate superintendence) उस जिले के जिला मजिस्ट्रेट में निहित होगा, जिसमें उक्त तरण (ferry) स्थित हो या ऐसे पदाधिकारी में निहित होगा, जिसे राज्यशासन इस हेतु नाम द्वारा या पदाधिकारी के रूप में समय समय पर नियुक्त करे ।

(2) उस दशा को छोड़ कर जब उक्त तरण (ferry) के टोल (tolls) पट्टे पर दिए जाते हों, उक्त मजिस्ट्रेट या पदाधिकारी उक्त तरण (ferry) के लिए नौकाओं की व्यवस्था करने के हेतु वहां पर आरोप्य प्राधिकृत टोल (toll) का संग्रह करने के लिए समस्त आवश्यक प्रबन्ध करेगा ।

6. प्रबन्ध म्युनिसिपैलिटी में निहिद किया जा सकेगा.—राज्यशासन यह निदेश दे सकेगा कि किसी नगर की सीमाओं में स्थित किसी भी सार्वजनिक तरण (public ferry) का प्रबन्ध ऐसा पदाधिकारी या ऐसी सार्वजनिक संस्था करेगी, जिसे उक्त नगर के नागरिक प्रबन्ध का अधीक्षण सौंपा गया हो, और इसके पश्चात् उस तरण (ferry) का प्रबन्ध तदनुसार किया जाएगा।

7. प्रबन्ध जिला पंचायत में निहित हो सकेगा.—राज्यशासन यह निदेश दे सकेगा कि जिला पंचायत के प्राधिकाराधीन रहते हुए पूर्णतया या अंशतया किसी भी सार्वजनिक तरण (public ferry) का प्रबन्ध जिला पंचायत द्वारा किया जा सकेगा और इसके पश्चात् उस तरण (ferry) का प्रबन्ध तदनुसार किया जाएगा।

8. तरण (ferry) के टोलों (tolls) का नीलामी द्वारा देना.—(1) समय समय पर किसी भी सार्वजनिक तरण (public ferry) के टोल (tolls) जिले के डिप्टी कमिश्नर का अनुमोदन लेकर सार्वजनिक नीलामी द्वारा पांच वर्ष से अनधिक अवधि तक के लिए, या राज्यशासन के पूर्वानुमोदन से सार्वजनिक नीलामी द्वारा या सार्वजनिक नीलामी से अन्यथा किसी भी अवधि तक के लिए दिए जा सकेंगे।

(2) पट्टेदार तरण (ferry) के प्रबन्ध और नियंत्रण के लिए इस अधिनियम के अन्तर्गत निर्मित नियमों का पालन करेगा। और वह पदाधिकारी, जिस में तरण (ferry) का निकटतम अधीक्षण निहित हो या यदि तरण (ferry) का प्रबन्धधारा 6 या 7 के अधीन कोई म्युनिसिपैलिटी या अन्य सार्वजनिक संस्था करती हो तो वह संस्था पट्टेदार से यह मांग कर सकेगी कि वह भाड़े (rent) की विधित रूप से चुकती करने के लिये उतनी प्रतिभूति दे जितनी यथास्थिति पदाधिकारी या संस्था उचित समझे।

(3) जब टोल (tolls) की सार्वजनिक नीलामी की जाए तो यथास्थिति उक्त पदाधिकारी या संस्था या वह पदाधिकारी जो उसकी ओर से बिक्री का काम कर रहा हो, कारण अभिलिखित करते हुए, सब से अधिक बोली बोलने वाले व्यक्ति की बोलों को स्वीकार करने से इन्कार कर सकेगा और अन्य किसी भी बोली को स्वीकृत कर सकेगा या टोलों (tolls) को नीलामी से हटा सकेगा।

9. पट्टेदार से बकाया की वसूली.—किसी सार्वजनिक तरण (public ferry) के टोलों (tolls) के पट्टेदार से उसके पट्टे के फलस्वरूप देय समस्त बकाया, उस जिले के जिला मजिस्ट्रेट द्वारा, जिस में उक्त तरण (ferry) स्थित हो पट्टेदार या उसके प्रातिभू, यदि कोई हो, से इस भांति वसूल किए जा सकेंगे मानो वे भूराजस्व का बकाया थे।

10. पट्टा रद्द करने की शक्ति.—(1) राज्यशासन पट्टा रद्द करने के अपने अभिप्राय की लिखित सूचना पट्टेदार को देने के पश्चात् एक मास समाप्त हो जाने पर किसी भी सार्वजनिक तरण (public ferry) के टोलों (tolls) का पट्टा रद्द कर सकेगा।

(2) जब इस धारा के अधीन कोई पट्टा रद्द कर दिया जाए तो उस जिले का जिला मैजिस्ट्रेट जिस में उक्त तरण (ferry) स्थित हो, पट्टेदार को उतना प्रतिधन देगा जितना वह राज्यशासन के पूर्वानुमोदन से परिनिर्णीत (award) करे।

11. पट्टा छोड़ना.—किसी भी सार्वजनिक तरण (public ferry) के टोलों (tolls) का पट्टेदार उस समय अपना पट्टा छोड़ सकेगा जब उसके द्वारा अपना पट्टा छोड़ने के अभिप्राय की लिखित सूचना राज्यशासन को देने के पश्चात् एक मास समाप्त हो गया हो और उसने उस जिले के डिस्ट्रिक्ट मजिस्ट्रेट को, जिसमें उक्त तरण (ferry) स्थित हो, ऐसा प्रतिधन चुका दिया हो जो वह मजिस्ट्रेट राज्यशासन के अनुमोदनाधीन प्रत्येक अवस्था में उचित समझे।

12. नियम बनाने की शक्ति.—(1) राज्यशासन के पूर्वानुमोदनाधीन फाइनेंशियल कमिश्नर या ऐसा पदाधिकारी, जिसे राज्यशासन नाम द्वारा या पदाधिकारी के रूप में इस हेतु समय समय पर नियुक्त करे, इस अधिनियम से संगत नियम बना सकेगा—

- (क) समस्त सार्वजनिक तरणों (public ferries) के नियंत्रण और प्रबन्ध के लिए तथा उक्त तरणों (ferries) पर यातायात का आनियमन करने के लिए ;
- (ख) उस समयावधि का और उस रीति का जिसके अनुसार तथा ऐसी शर्तों का आनियमन करने के लिए जिन पर उक्त तरणों (ferries) के टोल (tolls) नीलामियों द्वारा दिए जा सकें और वह व्यक्ति विहित करते हुए आनियम बना सकेगा, जिसके द्वारा नीलामियां की जा सकेंगी ;
- (ग) उन व्यक्तियों को प्रतिधन देने के लिए जिन्होंने उक्त किसी तरण (ferry) के प्रयोगार्थ देय टोलों (tolls) के लिए अभिसंधि की हो, जबकि उक्त तरण (ferry) पर कार्य करना अभिसंधित अवधि की समाप्ति से पूर्व छोड़ दिया गया हो ;
- (घ) सामान्यतः इस अधिनियम के प्रयोजन पूरे करने के लिए आनियम बना सकेगा और जब किसी तरण (ferry) के टोल (tolls) धारा 8 के अधीन दिए गए हों तो उक्त फाइनेंशियल कमिश्नर या अन्य पदाधिकारी समय समय पर (पूर्वांकाधीन) इस अधिनियम से संगत अतिरिक्त नियम बना सकेगा ;
- (च) उक्त तरणों (ferries) के टोलों (tolls) के लिए देय भाड़े (rents) का संग्रहण करने के लिए आनियम बना सकेगा ;
- (छ) उन दशाओं में जब यातायात नौकाओं, पीपों या लट्ठों के बेड़े के पुल (pontoons or rafts) या झूला पुल, हवाई पुल या अस्थायी पुल द्वारा स्थापित करना हो उस समयावधि का और उस रीति का जिसके अनुसार उक्त पुल बनाया जाएगा और संघृत किया जाएगा तथा उसमें से जलयान (vessels) और लट्ठों के बेड़े ले जाए जाने के लिए खोला जाएगा ; और
- (ज) उन दशाओं में जब यातायात नौकाओं (boats) द्वारा किया जाए निम्नलिखित का आनियमन करने के लिए :
  - (अ) उक्त नौकाओं (boats) की संख्या तथा प्रकार और उनकी लम्बाई चौड़ाई (dimensions) और सामग्री (equipment) ;
  - (आ) मल्लाहों की संख्या, जो कि प्रत्येक नौका का पट्टेदार रखेगा ;
  - (इ) उक्त नौकाओं (boats) को निरन्तर अच्छी दशा में रखना ;

(ई) वह समय जिसके दौरान और वह समयावधि जिसके भीतर पट्टेदार को नौका चलानी पड़ेगी; और

(उ) यात्रियों, पशुओं और वाहनों की संख्या और ऐसी अन्य वस्तुओं का धनत्व और भार जो प्रत्येक प्रकार की नौका में एक बार ले जाई जा सकेंगी।

(2) पट्टेदार यातायात के ऐसे विवरणपत्र देगा जिनकी अपेक्षा जिले का डिप्टी कमिश्नर पूर्वोक्तानुसार या अन्य पदाधिकारी समय समय पर करे।

13. सार्वजनिक तरण (public ferries) से दो मील के अन्तर्गत स्वीकृति लिए बिना कोई भी निजी तरण (private ferries) नहीं चलाए जाएंगे—जिले के डिप्टी कमिश्नर या ऐसे अन्य पदाधिकारी की स्वीकृति लिए बिना, जिसे राज्यशासन नाम से या पदाधिकारी के रूप में समय समय पर इस हेतु नियुक्त कर, किसी सार्वजनिक तरण (public ferry) की सीमाओं से दो मील की दूरी के भीतर किसी भी स्थान पर कोई भी व्यक्ति कोई भी तरण (ferry) स्थापित नहीं करेगा या नहीं चलाएगा या नहीं रखेगा :

परन्तु प्रतिबन्ध यह है कि किसी विशिष्ट सार्वजनिक तरण (public ferry) की दशा में, राज्यशासन राजपत्र में अधिसूचना दे कर दो मील की उक्त दूरी को ऐसी सीमा तक घटा सकेगा जो वह उचित समझे :

परन्तु यह भी कि पूर्वकथित कोई भी उपबन्ध ऐसे व्यक्तियों द्वारा नौकाएं चलाए जाने पर प्रभावी नहीं होगा जो दो स्थानों के बीच नौका चलाते हों और उन स्थानों में से एक स्थान कथित सीमाओं के बाहर हो और एक स्थान भीतर हो तथा दोनों स्थानों के बीच की दूरी तीन मील से कम न हो या पूर्वकथित कोई भी उपबन्ध उन नौकाओं के सम्बन्ध में प्रयुक्त नहीं होगा जो किराए पर न चलाई जाती हो या जिन्हें राज्यशासन इस धारा के प्रवर्तन से स्पष्टतया विमुक्त कर दे।

14. जो व्यक्ति चढ़ने के स्थान इत्यादि (approaches etc.) का प्रयोग करेगा उसे टोल (toll) देना पड़ेगा—जो कोई भी किसी सार्वजनिक तरण (public ferry) में चढ़ने या उसके ठहरने के स्थान (landing place) का प्रयोग करेगा उसे उक्त तरण (ferry) को पार करने के लिए देय टोल (toll) देना पड़ेगा।

15. टोल (tolls).—(1) ऐसी दर के अनुसार, जो राज्यशासन द्वारा समय २ पर नियत की जाए, किसी सार्वजनिक तरण (public ferry) द्वारा कोई नदी पार करने वाले समस्त व्यक्तियों, पशुओं, वाहनों और अन्य वस्तुओं पर, जो कि सार्वजनिक सेवा के लिए नियुक्त न हों या सार्वजनिक सेवा के लिये न पहुँचाई गई हो, टोल (toll) लगाया जाएगा :

परन्तु प्रतिबन्ध यह है कि राज्यशासन समय २ पर यह घोषणा कर सकेगा कि कोई भी व्यक्ति, पशु, वाहन या अन्य वस्तुएं उक्त टोल (toll) की चुकती से विमुक्त होंगी।

(2) जब किसी तरण के टोल (toll) धारा ४ के अधीन दिए गए हों तो ऐसी किसी भी घोषणा द्वारा और यदि उक्त घोषणा पट्टे के दिनांक के उपरांत की गई हो, पट्टेदार

टोल (toll) के सम्बन्ध में देय भाड़े (rent) की उतनी छूट का अधिकारी हो जाएगा जो जिले के डिप्टी कमिश्नर द्वारा या ऐसे अन्य पदाधिकारी द्वारा निश्चित की जाए जिसे राज्यशासन समय २ पर इस हेतु नाम से या पदाधिकारी के रूप में नियुक्त करे।

16. टोलों (tolls) की तालिका.—पट्टेदार या किसी सार्वजनिक तरण (public ferry) के टोलों (tolls) के संग्रहण के लिए प्राधिकृत अन्य व्यक्ति हिन्दी में मुद्रित या सुपठनीय उक्त टोलों (tolls) की हस्तलिखित एक तालिका और यदि जिले का डिप्टी कमिश्नर निदेश दे तो अंग्रेजी में भी पूर्वोक्तानुसार एक तालिका तरण (ferry) के समीप किसी भ्यानाकर्षी स्थान पर चिपका देगा। और मांग करने पर टोलों (tolls) की वह सूची भी उसे प्रस्तुत करनी पड़ेगी, जिस पर जिले के डिप्टी कमिश्नर के, या ऐसे अन्य पदाधिकारी के हस्ताक्षर हों, जिसे डिप्टी कमिश्नर ने इस हेतु नियुक्त किया हो।

17. टोल (tolls), भाड़े (rents), प्रतिधन और अर्थदण्ड, राज्य के राजस्व के भाग होंगे।— इस अधिनियम के अधीन समस्त टोल, (tolls) भाड़े, प्रतिधन और अर्थदण्ड [किसी पट्टेदार द्वारा प्राप्त टोलों (tolls) से अन्य] राज्य के राजस्व के भाग होंगे।

18. टोलों (tolls) की अभिसन्धि.—राज्यशासन यदि उचित समझे तो समय समय पर ऐसी दरें नियत कर सकेगा जिन पर कोई भी व्यक्ति किसी सार्वजनिक तरण (public ferry) के प्रयोगार्थ देय टोलों (tolls) के लिए अभिसंधि कर सकेगा।

### अध्याय 3

#### निजी तरण (Private Ferries)

19. नियम बनाने की शक्ति.—जिले का डिप्टी कमिश्नर राज्यशासन का पूर्वानुमोदन लेकर सार्वजनिक तरणों (public ferries) को छोड़ कर अन्य तरणों (ferries) पर सुव्यवस्था बनाए रखने के लिए और यात्रियों तथा संपत्ति की सुरक्षार्थ, समय समय पर नियम बना सकेगा।

20. टोल (tolls).—उक्त तरणों (ferries) पर लिए जाने वाले टोलों (tolls) की दर उन अधिकतम दरों से नहीं बढ़ेंगी जो तत्समान सार्वजनिक तरणों (public ferries) के लिए धारा 15 के अधीन तत्कलार्थ नियत हो।

### अध्याय 4

#### शास्तियां और दण्ड प्रक्रिया

21. टोलों (tolls) की तालिका, टोलों (tolls) की सूची और यातायात के विवरणपत्र से सम्बद्ध उपबन्धों के भंग के लिए शास्ति.—ऐसा कोई भी पट्टेदार या अन्य व्यक्ति, जिसे किसी सार्वजनिक तरण (public ferry) के टोल (tolls) इकट्ठा करने के लिए प्राधिकार प्राप्त हो, धारा 16 में वर्णित, टोलों (tolls) की तालिका चिपकाने और भलीभांति रखने और मरम्मत करने में प्रमाद करता है,

या जो उक्त तालिका को जान बूझकर हटाता है, बदलता है या बिगाड़ता है या इसे अपठनीय होने देता है,

या जो मांग करने पर धारा 16 में वर्णित टोलों (tolls) की सूची प्रस्तुत नहीं करता है, और ऐसा प्रत्येक पट्टेदार जो धारा 12 के अधीन अपेक्षित कोई विवरणपत्र प्रस्तुत करने में प्रमाद करता है

पचास रुपए तक के अर्थदण्ड का भागी होगा।

22. अनधिकृत टोल (tolls) लेने तथा विलम्ब के लिए शास्ति.— प्रत्येक उक्त पट्टेदार या पूर्वोक्तानुसार ऐसा अन्य व्यक्ति और कोई भी व्यक्ति, जिसके बच्चे में कोई निजी तरण (private ferry) हो या जो वैधानिक टोल (tolls) से अधिक टोल (tolls) मांगता हो, या ले रहा हो या बिना किसी उचित कारण से किसी व्यक्ति, पशु, गाड़ी या अन्य वस्तुओं को देर कर रहा हो, ऐसे अर्थदण्ड का भागी होगा जो कि पांच सौ रुपए तक हो सकेगा।

23. धारा 12 और धारा 19 के अधीन बनाए गए नियमों के भंग के लिए शास्ति.— प्रत्येक ऐसा व्यक्ति जो धारा 12 या धारा 19 के अधीन किसी नियम का भंग करने का अपराध करता हो ऐसे कारावास का भागी हो सकेगा, जिसकी अवधि छः महीने तक हो सकेगी या ऐसे अर्थदण्ड का भागी होगा, जो दो सौ रुपए तक हो सकेगा, या दोनों का भागी हो सकेगा।

24. प्रमाद या नियमों के भंग करने पर पट्टे का रद्द करना.— जब किसी सार्वजनिक तरण (public ferry) के टोलों (tolls) का कोई पट्टेदार उक्त टोलों (tolls) के सम्बन्ध में देय भाड़े (rent) की चुकती में प्रमाद करे या जो धारा 23 के अधीन किसी अपराध का दोषी ठहराया गया हो या जो धारा 21 या धारा 22 के अधीन किसी अपराध का दोषी ठहराए जाने पर पुनः उक्त धाराओं में से किन्हीं के अधीन किसी अपराध का दोषी ठहराया जाए तो जिले का डिस्ट्रिक्ट मजिस्ट्रेट राज्यशासन की स्वीकृति से उक्त तरण (ferry) के टोलों (tolls) का पट्टा रद्द कर सकेगा और जिस अवधि के लिए टोल (tolls) दिए गए थे उस समस्त अवधि या उसके किसी भाग के मध्य इसकी व्यवस्था के लिए अन्य प्रबन्ध कर सकेगा।

25. अपराध करने वाले यात्रियों पर शास्ति.— प्रत्येक व्यक्ति, जो किसी सार्वजनिक तरण (public ferry) से पार होता हो या उस पर चढ़ने के स्थान का प्रयोग करता हो, या उसके ठहरने के स्थान का प्रयोग करता हो और उचित टोल (tolls) देने से इन्कार करता हो,

और प्रत्येक व्यक्ति जो उक्त टोल (tolls) की चुकती ढालने के विचार से झल या बल पूर्वक बिना टोल (toll) दिए उक्त किसी भी तरण (ferry) से पार होता है, या

ऐसा व्यक्ति जो टोल संग्रहीता (toll collector) या सार्वजनिक तरण (public ferry) के टोलों (tolls) के पट्टेदार या उसके किसी भी सहायक द्वारा इस अधिनियम के अधीन कार्यसंपादन करने में किसी भी प्रकार से बाधा डालता है, या

ऐसा व्यक्ति जो उक्त किसी भी टोल संग्रहीता (toll collector), पट्टेदार या उसके सहायक द्वारा ऐसा न करने की चेतावनी देने के पश्चात् भी पार जाता है या किन्हीं पशुओं, गाड़ियों या अन्य वस्तुओं को किसी तरणी (ferry boat) में ले जाता है या उक्त तरण (ferry) पर लगे हुए किसी ऐसे पुनः पर से ले जाता है जो ऐसी दशा में हो या इस प्रकार से लादा गया हो, जिससे कि मनुष्य का जीवन तथा सम्पत्ति संकट में पड़ जाए, या

ऐसा व्यक्ति जो उक्त तरणी (ferry boat) या पुल से किन्हीं पशुओं, गाड़ियों या वस्तुओं को छोड़ने या हटाने से इन्कार करता हो या उस में प्रमाद करता हो जब कि टोल संग्रहीता (toll collector) पट्टेदार या उसके सहकारी ने ऐसा करने की प्रार्थना की हो

ऐसे अर्थदण्ड का भागी होगा, जो पचास रुपए तक हो सकेगा।

26. प्रतिषिद्ध सीमा के भीतर निज तरण (private ferry) रखने के लिए शास्ति.— जो कोई भी धारा 13 के उपबन्धों को भंग करके तरण (ferry) स्थापित करता है (establishes), रखता है या चलाता है, ऐसे अर्थदण्ड का भागी होगा जो पांच सौ रुपए तक हो सकेगा और साथ ही साथ प्रत्येक ऐसे दिन के लिए जिन में उक्त उपबन्धों के अधीन अन्य कोई तरण (ferry) रखा गया हो, या चलाया गया हो एक सौ रुपए प्रतिदिन के हिसाब से अर्थदण्ड का भागी होगा।

27. पट्टेदार को देय अर्थदण्ड.—उस दशा में जब कि यहां से पूर्वलिखित उपबन्धों के अधीन किसी सार्वजनिक तरण (public ferry) के टोल (tolls) दिए गए हों तो धारा 17 में किसी बात के होते हुए भी अपराधी ठहराने वाले मजिस्ट्रेट के विवेक पर धारा 25 या धारा 26 के अधीन वसूल किए गए अर्थदण्ड की राशि पूर्णतया या अंशतया पट्टेदार को दी जा सकेगी।

28. उतावली से नौका चलाने और इमारती लकड़ी (timber) का ढेर लगाने के लिए शास्ति.—जो कोई भी किसी जलयान (vessel) या लट्ठों के बेड़े (rafts) को इस प्रकार से चलाता है या उसमें लंगर डालता है या तरण (ferry) में खड़ा करता है या बांधता है या ऐसी असावधानी से इमारती लकड़ी का ढेर लगाता है, जिससे कि सार्वजनिक तरण (public ferry) को हानि पहुंचे तो उसे तीन मास से अनधिक अवधि तक का कारावास दण्ड दिया जा सकेगा या पांच सौ रुपए से अनधिक अर्थदण्ड दिया जा सकेगा या दोनों दण्ड दिए जा सकेंगे और यहां से आगे वर्णित परिपृच्छा और निर्धारण होने तक उक्त तरण (ferry) के टोलों (tolls) का संग्रहीता या पट्टेदार या उसका कोई भी सहकारी उक्त जलयान (vessel), लट्ठों के बेड़े (rafts) या इमारती लकड़ी को ज्वत् कर सकेगा या रोक सकेगा।

29. बिना वारंट (warrant) के गिरफ्तार करने की शक्ति.— धारा 25 या धारा 28 के विरुद्ध अपराध करने वाले किसी भी व्यक्ति को पुलिस बिना वारंट के गिरफ्तार कर सकेगी।

30. अन्वीक्षा करने की शक्ति.—प्रथम या द्वितीय श्रेणी का कोई भी मजिस्ट्रेट इस अधिनियम के विरुद्ध किसी भी अपराध की अन्वीक्षा कर सकेगा।

31. अपराधी द्वारा पहुंचाई गई हानि का निर्धारण मजिस्ट्रेट कर सकेगा.—(1) प्रत्येक मजिस्ट्रेट, जो इस अधिनियम के अधीन किसी अपराध की अन्वीक्षा कर रहा हो, अपराधी द्वारा सम्बद्ध तरण (ferry) को पहुंचाई गई या की गई हानि (यदि कोई हो) की परिपृच्छा कर सकेगा और उसका मूल्य निर्धारित कर सकेगा और इस अधिनियम के अधीन आरोपित किसी अन्य अर्थदण्ड के अतिरिक्त उक्त मूल्य की राशि अपराधी द्वारा चुकाए जाने का आदेश देगा, और इस प्रकार चुकती करने के लिए आदेशित राशि इस प्रकार वसूल की जाएगी मानो वह अर्थदण्ड था या जब अपराध धारा 28 के अधीन किया गया हो तो हानि पहुंचाने वाले जलयान (vessel), लट्ठों के बेड़े (rafts) या इमारती



लकड़ी को बेच कर और उक्त जलयान (vessel) या लट्टों के बेड़े (raft) पर पाई गई किसी वस्तु को बेच कर वसूल की जाएगी।

(2) इस धारा के अधीन दिए गए आदेश से अपने आपको पीड़ित समझने वाले किसी भी व्यक्ति के अपील करने पर राज्यशासन उक्त आदेश के अधीन देय राशि को कम कर सकेगा या छोड़ सकेगा।

## अध्याय 5

### प्रकीर्ण

32. पट्टे के समर्पण या रद्द करने पर नौका इत्यादि पर कब्जा करने की शक्ति.—जब किसी तरण (ferry) के टोलों (tolls) का पट्टा धारा 11 के अधीन छोड़ दिया गया हो या धारा 24 के अधीन रद्द कर दिया गया हो तो जिले का मजिस्ट्रेट समस्त नौकाओं तथा उनकी सामग्री (equipment) और उक्त तरण (ferry) के प्रयोजनार्थ पट्टेदार द्वारा प्रयोगित अन्य समस्त वस्तुएं (materials) और उपकरण अपने अधिकार में ले सकेगा और उन्हें उनके प्रयोग के लिए ऐसा प्रतिधन देकर, जो राज्यशासन प्रत्येक दशा में निदेशित करे, ऐसे समय तक प्रयोग कर सकेगा जब तक उक्त मजिस्ट्रेट उनके स्थान पर सौख्यानसार अन्य उचित प्रबन्ध न कर पाए।

33. आकस्मिक दशाओं में उसी प्रकार की शक्तियां.—जब पदाधिकारियों या भारत सरकार के कर्तव्यारूढ़ सैन्य दलों अथवा सरकारी काम पर लगे हुए अन्य किन्हीं व्यक्तियों या उक्त पदाधिकारियों, सैन्य दलों या व्यक्तियों के किन्हीं पशुओं, गाड़ियों या सामान या किसी सरकारी सम्पत्ति के परिवहन की सुविधा हेतु तरण (ferry) स्थापित करने के लिए उपयुक्त नौकाओं या उनकी सामग्री या वस्तुओं या उपकरणों की तुरन्त आवश्यकता हो तो जिले का डिस्ट्रिक्ट मजिस्ट्रेट उनके प्रयोग के लिए ऐसा प्रतिधन चुकाने के पश्चात् उन पर कब्जा कर सकेगा और उन्हें प्रयोग कर सकेगा, जो कि उस दशा में जहां परिवहन की आवश्यकता केन्द्रीय शासन के कार्य से सम्बद्ध हो, केन्द्रीय शासन द्वारा तथा अन्य दशाओं में राज्य शासन द्वारा प्रत्येक अवस्था में उक्त परिवहन की पूर्णता पर्यन्त निदेशित किया जाए।

34. दीवानी न्यायालयों के क्षेत्राधिकार पर रुकावट.—इस अधिनियम के अधीन प्रतिधन की देय राशि का सुनिश्चयन करने के लिए या अनुज्ञेय भाड़े के न्यूनीकरण के सम्बन्ध में कोई दीवानी न्यायालय किसी बाद का संज्ञान नहीं करेगा।

35. शक्ति अर्पण —राज्यशासन इस अधिनियम के अधीन स्वप्रदत्त किन्हीं भी शक्तियों को सहाय समय पर ऐसे आयन्त्रणों के अधीन, जो वह उचित समझे जिले के डिस्ट्रिक्ट मजिस्ट्रेट या जिले के किसी अन्य मजिस्ट्रेट या अन्य ऐसे पदाधिकारियों को जो वह उचित समझे, नाम से या पदाधिकारी के रूप में प्रदान कर सकेगा।

वंशी धर शर्मा,  
सचिव।